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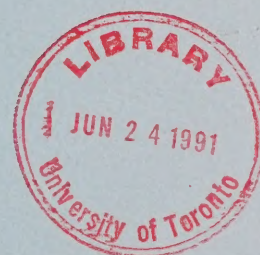
VOLUME: 320

DATE: Wednesday, June 12, 1991

BEFORE:

A. KOVEN Chairman

E. MARTEL Member



FOR HEARING UPDATES CALL (COLLECT CALLS ACCEPTED) (416)963-1249

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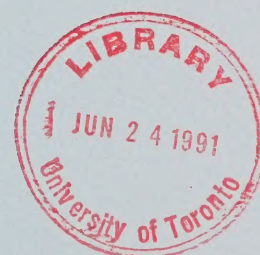
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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER of a Notice by The Honourable
Jim Bradley, Minister of the Environment,
requiring the Environmental Assessment
Board to hold a hearing with respect to a
Class Environmental Assessment (No.
NR-AA-30) of an undertaking by the Ministry
of Natural Resources for the activity of
Timber Management on Crown Lands in
Ontario.

Hearing held at the Red Dog Inn, 200 Stewart
Street, Fort Frances, Ontario, on Wednesday,
June 12th, 1991 commencing at 9:21 a.m.

VOLUME 320

BEFORE:

MRS. ANNE KOVEN
MR. ELIE MARTEL

Chairman
Member

A P P E A R A N C E S

MR. V. FREIDIN, Q.C.	)	MINISTRY OF NATURAL
MS. C. BLASTORAH	)	RESOURCES
MS. K. MURPHY)	
MR. B. CAMPBELL)	
MS. J. SEABORN	)	MINISTRY OF ENVIRONMENT
MS. N. GILLESPIE)	
MR. R. TUER, Q.C.	)	ONTARIO FOREST INDUSTRY
MR. R. COSMAN	)	ASSOCIATION and ONTARIO
MS. E. CRONK	)	LUMBER MANUFACTURERS'
MR. P.R. CASSIDY)	ASSOCIATION
MR. H. TURKSTRA		ENVIRONMENTAL ASSESSMENT BOARD
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DR. T. QUINNEY)	OF ANGLERS & HUNTERS
MR. D. HUNTER		NISHNAWBE-ASKI NATION and WINDIGO TRIBAL COUNCIL
MR. J.F. CASTRILLI)	
MS. M. SWENARCHUK	)	FORESTS FOR TOMORROW
MR. R. LINDGREN)	
MS. B. SOLANDT-MAXWELL)	
MR. D. COLBORNE	)	GRAND COUNCIL TREATY #3
MS. S.V. BAIR-MUIRHEAD)	
MR. C. REID	)	ONTARIO METIS &
MR. R. REILLY	)	ABORIGINAL ASSOCIATION
MR. P. SANFORD	)	KIMBERLY-CLARK OF CANADA
MS. L. NICHOLLS	)	LIMITED and SPRUCE FALLS
MR. D. WOOD	)	POWER & PAPER COMPANY
MR. D. MacDONALD		ONTARIO FEDERATION OF LABOUR

APPEARANCES (Cont'd):

MR. R. COTTON		BOISE CASCADE OF CANADA LTD.
MR. Y. GERVAIS	)	ONTARIO TRAPPERS
MR. R. BARNES	)	ASSOCIATION
MR. R. EDWARDS	)	NORTHERN ONTARIO TOURIST
MR. B. McKERCHER	)	OUTFITTERS ASSOCIATION
MR. L. GREENSPOON	)	NORTHWATCH
MS. B. LLOYD)	
MR. J.W. ERICKSON, Q.C.)		RED LAKE-EAR FALLS JOINT
MR. B. BABCOCK	)	MUNICIPAL COMMITTEE
MR. D. SCOTT	)	NORTHWESTERN ONTARIO
MR. J.S. TAYLOR	)	ASSOCIATED CHAMBERS OF COMMERCE
MR. J.W. HARBELL	)	GREAT LAKES FOREST
MR. S.M. MAKUCH)	
MR. D. CURTIS	)	ONTARIO PROFESSIONAL
MR. J. EBBS	)	FORESTERS ASSOCIATION
MR. D. KING		VENTURE TOURISM ASSOCIATION OF ONTARIO
MR. H. GRAHAM		CANADIAN INSTITUTE OF FORESTRY (CENTRAL ONTARIO SECTION)
MR. G.J. KINLIN		DEPARTMENT OF JUSTICE
MR. S.J. STEPINAC		MINISTRY OF NORTHERN DEVELOPMENT & MINES
MR. M. COATES		ONTARIO FORESTRY ASSOCIATION
MR. P. ODORIZZI		BEARDMORE-LAKE NIPIGON WATCHDOG SOCIETY

APPEARANCES (Cont'd):

MR. R.L. AXFORD	CANADIAN ASSOCIATION OF SINGLE INDUSTRY TOWNS
MR. M.O. EDWARDS	FORT FRANCES CHAMBER OF COMMERCE
MR. P.D. McCUTCHEON	GEORGE NIXON
MR. C. BRUNETTA	NORTHWESTERN ONTARIO TOURISM ASSOCIATION

I N D E X O F E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
1885	Affidavit of service, sworn by Ms. T. Tieman, dated June 7, 1991.	56383
1886	A letter from from the MNR, dated January 17, 1991, sent by the acting district manager in Fort Frances to the Seine River Band re. a workshop for district trappers, as well as an additional two letters sent to all trappers in the district and all bands in the district. Also included is sample of the attached form to be completed.	56442

I N D E X O F P R O C E E D I N G S

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I N D E X O F E X H I B I T S

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1 ---Upon commencing at 9:21 a.m.

2 MADAM CHAIR: Please be seated.

3 Good morning, Mr. Colborne.

4 MR. COLBORNE: Good morning, Madam Chair.

5 MR. FREIDIN: Madam Chair, if I might
6 just start with one matter of procedure. I would like
7 to file an affidavit of service in relation to the
8 notice of public hearings in Kenora, Thunder Bay and
9 Sioux Lookout, an affidavit of Tracy Tieman, sworn on
10 the 7th day of June 1991. And Ms. Tieman has asked me
11 specifically to advise the Board that there were 1,767
12 notices mailed in relation to these hearings.

13 MADAM CHAIR: That will be Exhibit 1885.

14 ---EXHIBIT NO. 1885: Affidavit of service, sworn by
15 Ms. T. Tieman, dated June 7,
1991.

16 MADAM CHAIR: Mr. Colborne.

17 MR. COLBORNE: Yes, Madam Chair, I am
18 ready to continue or, more correctly, resume the Panel
19 3 evidence on behalf of Grand Council Treaty #3. My
20 first witness is Albert Comegan. He is here on behalf
21 of the Big Grassy Band. I would ask him to come
22 forward. Mr. Comegan.

23
24 ALBERT COMEGAN; Sworn.

DIRECT EXAMINATION BY MR. COLBORNE:

Q. Good morning, Mr. Comegan.

A. Good morning.

Q. You are here representing the Big
Grassy Band, and I understand you're the former Chief.

A. Yes.

Q. And the present Chief has authorized
you to come and speak on behalf of the community?

A. Hm-hmm.

Q. You can see beside you a large photo
mosaic showing the Treaty #3 territory, entitled "The
Treaty #3 Ojibiway Homeland". Could you indicate on
that the location of the Big Grassy community, please.

A. It is there. (Indicating)

Q. Thank you. That's on the east shore
of Lake of the Woods?

A. Hm-hmm.

Q. And Mr. Comegan, have you looked
through the outline of information in regard to the Big
Grassy community that is found on pages 1 and 2 of
witness statement No. 3; that is, the document which I
believe you have before you?

A. Yes, I do.

Q. And, sir, are you the source of the
information or at least most of the information that

1 appears in here?

2 A. Yes.

3 Q. Have you looked it over again this
4 morning?

5 A. I looked it over.

6 Q. And when you did, did you notice any
7 major errors, particularly as regards forestry?
8 Or omissions? Anything major that was left out?

9 A. No.

10 Q. I would like to ask you just a few
11 questions about the basic situation at the Big Grassy
12 community, and mainly, what's the economic base there?
13 What's the chief source of jobs and income for the
14 reserve residents?

15 A. At that time, being during the
16 summer, housing from the Band and the money they get is
17 from the, I believe from the government. And most of
18 the Band do their own work to build the houses. And
19 that's the main income right now.

20 And also the commercial fishing has
21 increased. Like guiding has declined recently and more
22 are turning to commercial fishing which is not very --
23 won't be very long that our quotas are really small.
24 And there's a few tree planting in the springtime and
25 it's not very much. I think it's just one or two days

1 or three days that they do that.

2 Q. What do people do for an income who
3 can't get work?

4 A. Most of them are -- if there is no
5 work for them, they are on welfare.

6 Q. Do you know what the unemployment
7 rate would be or can you approximate what the
8 unemployment rate would be on the reserve?

9 A. Before, like in the wintertime, I
10 think the employment rate is somewhere, 80 per cent
11 maybe. And right now as more people -- maybe 50 per
12 cent at this time.

13 Q. Tell me about the harvestable timber
14 on your reserves. I see in the list one large reserve
15 and three smaller ones. Let's talk about the large
16 reserve first. That one is on the mainland; right? Or
17 it's accessible by road and that's where the people
18 live mainly, that's the residential area?

19 A. Hm-hmm, yes.

20 Q. Is there harvestable wood available
21 on that reserve?

22 A. The only ones that are harvestable is
23 the poplar. Like the evergreens were taken out quite a
24 few years ago and there's quite a bit of logging in
25 that area times past.

1 Q. Do you know approximately when that
2 logging took place?

3 A. It's been taken, as far as I can
4 remember, in the fifties, sixties, seventies they were
5 still -- early seventies, I believe.

6 Q. Do you know, was this logging done by
7 the Band or by Band members or was it done by
8 non-Indian contractors?

9 A. It was done by Band members but
10 there's usually an outside person that would make the
11 roads for them and haul the wood for them. He would do
12 that, but the cutting was done by Indians.

13 Q. Now, there are three reserves that
14 are a little smaller than 35G; that is 35J, 35A and
15 35B. Are those accessible by road?

16 A. No, they are not. Most of the other
17 reserves are located on the lake.

18 Q. And is there harvestable wood on
19 those other reserves?

20 A. I don't think so because those areas
21 were also logged over.

22 Q. You mentioned in regard to my
23 question about employment that I think you said that
24 guiding jobs were down?

25 A. Hm-hmm.

1 Q. Could you tell me more about that?
2 What was the situation before as opposed to what it's
3 like now?

4 A. Like, I can remember back in the
5 seventies, most of the people were guides -- were
6 guiding, especially in May, June, July, all the summer
7 months. Most of them -- like people would come every
8 morning and look for guides. Now you very seldom see
9 that because I believe people know the lake now and
10 they don't require guides.

11 Q. But the commercial fishing went up,
12 you said?

13 A. Yes.

14 Q. But you mentioned that the quotas
15 were low. So, could you give us some more information
16 about that.

17 A. When the quotas were first
18 implemented, we started off with, I believe, 19,000 on
19 the walleye and it went down every year. And the
20 second year it was, I believe, 16,000. And in the
21 third year it went down to 12,000 and stayed there
22 since.

23 Q. How many people share that quota?

24 A. At least at the moment about six
25 boats; six boats go out every morning.

1 Q. So how long would that provide
2 income?

3 A. Maybe three months.

4 Q. Do members of the Big Grassy
5 community trap?

6 A. There are a few trappers. I for one
7 have a trap licence on the Aulneau peninsula, and my
8 brother has one there too, on the Aulneau.

9 Q. And what's the situation in terms of
10 income from trapping?

11 A. Like last year there was virtually
12 nothing.

13 Q. And what's the cause of that?

14 A. Well, furbearing is going out, I
15 believe. There's no one wants to buy it. I believe
16 there is just one buyer and it's awfully low for pelt.

17 Q. What about wild rice? Do members of
18 your community harvest a lot of wild rice? Is it a
19 significant income earner on the reserve?

20 A. In the last couple of years, there's
21 a little bit of rice but there's no buyers to buy the
22 rice, so there was no rice picking.

23 Q. And what about hunting? Is hunting
24 an important factor, perhaps for food, or is it not a
25 factor at all, or how would you describe it?

1 A. There is some hunting in the fall for
2 food and not everybody hunts. There's just a few
3 members that go out.

4 Q. Now in regard to those things that I
5 have just asked you about; that is, fishing, trapping
6 wild rice, hunting, have there been any effects of that
7 caused by forestry operations? And that could include
8 things like logging roads and doesn't have to be
9 restricted to just cutting.

10 A. I don't think so.

11 Q. Your own trapline, has there been any
12 cutting on your trapline?

13 A. There has been some but not as great
14 as what I see on the -- on this side, the Fort Frances
15 area.

16 Q. Tell me exactly what you see when you
17 go to your trapline in terms of cutting and what
18 effect, if any? I think you've already told us there's
19 no effect. But what exactly do you see when you go
20 there? And as a trapper what are your comments on
21 that?

22 A. Well, in my area there -- a few areas
23 were cut but not to a great extent, not large areas,
24 and a lot of timber was still left. And I didn't see
25 any change in the furbearing animals.

1 Q. Now, I want to ask you about
2 participation in forest operations by your Band or by
3 members of it. Are there at the present time any
4 Indian-controlled forestry operations?

5 A. No.

6 Q. What about in past years? Has there
7 ever been anything run by the Band or anything run by a
8 member or a group on the reserve?

9 A. We applied some time -- years, I
10 don't know when it was - in the seventies, I believe -
11 for a cutting area on Matthew Township. And what we
12 got there at that time was the area was burnt over - I
13 don't know when, in the forties I believe - and we got
14 an area with fresh growth of jackpine, which some of
15 them were no bigger than the size of this pitcher there
16 and it wasn't worth cutting. And so we just decided
17 not to go in at all because we had to cross a creek -
18 and it was a big creek - to make a road into it
19 which -- it wasn't worth it, what we seen.

20 Q. Did you yourself have anything to do
21 with that operation? Were you one of the ones involved
22 with it?

23 A. I was one of them involved, yes. And
24 we decided that it wasn't, just wasn't worth going in.

25 Q. Who did you apply to?

1 A. I believe this Boise here in Fort
2 Frances.

3 Q. Would I be correct then to say it was
4 a sub-contract of some kind?

5 A. Probably would be, yeah.

6 We also in later years, we decided to
7 give it another try and it's in the same area. And in
8 the fall they put a name in, I don't know a hat or a
9 box, whoever wants to cut in that area, and they pull
10 out names and get a first choice.

11 And we weren't exactly prepared. You
12 know, we thought we wouldn't have a chance, like so
13 many people put names in there. And I believe it was
14 first choice came to Big Grassy and we pulled out Big
15 Grassy first, way up there anyway, and we didn't go in
16 there even to look at the area which was good and which
17 was -- wood and timber was good and stuff. We didn't
18 look at the lots.

19 We were kind of surprised which area to
20 pick, and also when we did pick an area, some of the
21 members went in there and started cutting but they
22 didn't actually finish that lot. We had to hire an
23 outside person to go in and clean out the lot first.

24 Q. So that one didn't work out very
25 well. What were the reasons? What were the problems

1 there?

2 A. I believe the main reason was we
3 thought that we weren't going to get a lot. We just
4 decided, just give it a try...

5 Q. You thought you weren't going to get
6 it but then you did get it?

7 A. Yes. And we weren't prepared to --
8 we didn't even have a skidder or chain saws to do it to
9 begin with. We had to scramble to get those after
10 we...

11 Q. And this was a lottery of some kind?

12 A. Yes.

13 Q. It was just a whole bunch of names
14 went in and you happened to be the winner?

15 A. We were the winner.

16 Q. Okay. There are those two cases that
17 you've mentioned. Are there other cases where the Band
18 has participated in an actual forestry operation?

19 A. Not that I know of.

20 Q. What about not forestry but
21 silviculture, tree planting, and that type of thing?

22 A. A lot of tree planting was right at
23 the reserve, at the main reserve.

24 We've had, I believe, some members do
25 tree planting off the reserve. Like, they put in their

1 name to work in certain areas that they advertise in
2 the paper. We have had some Band members do that in
3 the Nestor Falls area.

4 Q. Is that working as employees planting
5 trees or are you referring to obtaining the contracts?

6 A. It wasn't obtaining contracts. I
7 think they worked for the MNR or someplace else or
8 Boise or whoever had the...

9 Q. The tree planting on reserve that
10 you've referred to, that's run by the Band, is it?

11 A. That's run by the Band.

12 Q. Is there any Band-run tree planting
13 off-reserve?

14 A. Not that I know of.

15 Q. What is the reason for that?

16 A. In years back we used to get a large
17 quantity of little trees for tree planting. And in
18 recent years, I believe, they just get very little and
19 that's the reason why. It's only a two- or three-day
20 operation.

21 Q. Do you know why there --

22 A. Not enough trees to go around is what
23 I hear.

24 Q. Have you yourself had anything to do
25 with applying for tree planting contracts?

1 A. No, I didn't.

2 Q. What about fire fighting? Do members
3 of your Band work as fire fighters?

4 A. They haven't worked but they have
5 trained for that. They trained but they never did get
6 hired.

7 Q. Do you know why that is?

8 A. Maybe for reason we live like a
9 greater distance away from Fort Frances.

10 Q. And why would you have to live near
11 Fort Frances to get called to work on a forest fire?

12 A. It seems like in a way that bands
13 closest to Fort Frances seem to get the fire. They get
14 the first choice it seems like.

15 Q. Is this a central staging area or
16 something like that?

17 A. I think so, yeah. I think it comes
18 from Fort Frances.

19 Q. There is a mention in the witness
20 statement that -- or no, excuse me.

21 Sir, what would you say are the factors
22 which would stand in the way of Big Grassy having more
23 participation in the forest industry?

24 If you wanted, for instance, to have more
25 members of the community employed in forestry, what

1 would be the obstacles that you would have to overcome
2 or the steps that would have to be followed to achieve
3 that objective as far as you are aware?

4 A. Experience for one thing I believe is
5 the main factor because a lot of the Indian people
6 don't do any of that now and the ones that did it are
7 up in years, and I think you would have to train the
8 young ones, the young people to do that.

9 Q. There are living on the reserve now,
10 people who did work in forestry in past years?

11 A. On the reserve, yes.

12 Q. What happened that caused them to no
13 longer be working in forestry? Is it just that they
14 have retired or are there other factors?

15 A. I am not sure on this. But it seems
16 like every time that we did ask for a quota, I would
17 call it. Like, they wouldn't want us also to cut
18 jackpine or spruce along with the poplar. And if we
19 didn't have that, seems like we couldn't get it --
20 couldn't get the poplar or whatever we wanted. So,
21 that's how it stopped.

22 MR. COLBORNE: Those are my questions.
23 Thank you, Mr. Comegan. There will probably be some
24 other questions.

25 MADAM CHAIR: Mr. Cassidy?

1 CROSS-EXAMINATION BY MR. CASSIDY:

2 Q. I am not clear. How far -- there are
3 three reserve areas in your Band; is that right?

4 A. Three besides the main one at the
5 mainland.

6 Q. So there's four areas?

7 A. Yes.

8 Q. How far are they from Fort Frances in
9 terms of miles?

10 A. Big Grassy is about 80 miles, road
11 miles.

12 Q. Sorry, 80 miles?

13 A. About 80 miles, road miles.

14 Q. And the others?

15 A. Their wood area is about 15 miles, 15
16 miles from Big Grassy. Like, they are on the lake.
17 They are situated more that way. (Indicating)

18 Q. So it's 95 miles to Fort Frances?

19 A. Hm-hmm.

20 Q. Is there road access?

21 A. No, they have to cross water.
22 There's no road.

23 Q. So they have got to travel 95 miles,
24 a large part by water?

25 A. No, no. You travel 80 by... And

1 then you have to cross by water, like 10 miles, 15
2 miles.

3 Q. Would you agree it would be very
4 difficult for somebody living on the reserve to commute
5 to work in Fort Frances?

6 A. Yes.

7 MR. CASSIDY: Thank you. Those are my
8 questions.

9 MADAM CHAIR: Thank you, Mr. Cassidy.

10 MS. GILLESPIE: I have no questions,
11 Madam Chair.

12 MADAM CHAIR: Thank you, Ms. Gillespie.

13 Mr. Freidin?

14 MR. FREIDIN: Just one question.

15 CROSS-EXAMINATION BY MR. FREIDIN:

16 Q. When Mr. Colborne asked you about --
17 he asked you whether there was any tree planting by the
18 Band off the reserve. And in your answer, you said in
19 the past you got lots of trees for planting but now you
20 are getting fewer. The trees that you referred to
21 about getting in the past, were those trees that you
22 got for planting on the reserve or off the reserve?

23 A. It was on the reserve.

24 Q. And my understanding is that -- and
25 so that when you said you were getting fewer trees now,

1 you were meaning to say you were getting fewer trees
2 now to plant on the reserve?

3 A. Yes.

4 Q. And the trees that you were getting
5 both in the past in greater numbers and now in fewer
6 numbers were trees that would be purchased by the Band
7 from the Ministry of Natural Resources; is that right?

8 A. I believe that's what it was.

9 MR. FREIDIN: Those are my questions.

10 Thank you.

11 MADAM CHAIR: Thank you, Mr. Freidin.

12 Mr. Colborne?

13 MR. COLBORNE: No, re-examination. Thank
14 you.

15 MADAM CHAIR: Thank you very much, Mr.
16 Comegan. We appreciate you joining us today and giving
17 us your evidence. Thank you very much.
18 ---Witness withdraws.

19 MR. COLBORNE: Madam Chair, my next
20 witness, Archie Potson, is here. I would like a few
21 minutes with him before he takes the stand. He's
22 travelled to arrive here and I think he just arrived,
23 so if we could have five or ten minutes.

24 MADAM CHAIR: All right. We'll take a
25 short break.

1 MR. COLBORNE: Thank you.

2 ---Recess at 9:55 a.m.

3 ---On resuming at 10:15 a.m.

4 MADAM CHAIR: Please be seated.

5 Mr. Colborne.

6 MR. COLBORNE: My next witness is Mr.

7 Archie Potson.

8

9 ARCHIE POTSON; Sworn.

10

11 DIRECT EXAMINATION BY MR. COLBORNE:

12 Q. Mr. Potson, I understand you are here
13 representing the Seine River community?

14 A. Yes.

15 Q. I know that you have a lot of
16 background with the Seine River Band and especially
17 with forestry. I wonder if you could just outline that
18 for the Board so they would know that they have a
19 knowledgeable person here?

20 A. Well, I guess the logging on Seine
21 River goes back to around 1944, when they started the
22 logging operations on Seine River. The amount of wood
23 that was cut was about 1500 cords per year and the
24 logging ceased operation on the reserve by a non-native
25 contractor 1967. The Band started logging on their own

1 in 1970 and we cut on an average about a thousand cords
2 a year till about 1979.

3 Q. You yourself had some involvement
4 with that; is that correct?

5 A. Yes.

6 Q. Could you tell me just about your own
7 personal role?

8 A. Well, when the Band started their own
9 logging operations, I was in charge of the logging
10 operation.

11 Q. Sorry, if I remember correctly that
12 would be in what year?

13 A. About 1970.

14 And we tried on numerous occasions to get
15 limits on Crown land. We weren't successful. I think
16 the attitude of the MNR at that particular time was
17 that, you know, if we had, if we had wood to cut on the
18 reserve, then I think that's where we should be
19 logging.

20 Q. The logging that you talked about,
21 that was all on-reserve; right?

22 A. Yes.

23 Q. Could you show us just where the
24 Seine River reserves are located. There's three of
25 them listed in the witness statement.

1 A. Right here. There's one and we have
2 also another one towards the mouth of Seine Bay, and,
3 you know, that's probably the only area that has any,
4 you know, any logs left.

5 Q. So those three reserves are generally
6 eastward from Rainy Lake; is that right?

7 A. Yeah, yeah.

8 Q. And did I just hear you say that -
9 when you were away from mike - that one of them has
10 some harvestable wood left?

11 A. Yes.

12 Q. And how much wood or, I'm not
13 expecting that you know that in exact detail, but
14 generally how much wood is left on that reserve?

15 A. We estimated there's about, you know,
16 about 2,000 cords there, which is made up of three or
17 four different types of wood. You know, there's saw
18 log material, there's some jackpine, some spruce, but
19 mostly saw logs.

20 Q. That's 2,000 cords in total?

21 A. Hm-hmm.

22 Q. And am I correct that that would be
23 all of the merchantable wood available on all three
24 reserves--

25 A. Yes.

1 Q. --that's available for cutting now?

2 A. Yes.

3 Q. What about the situation with the
4 other two reserves; that is, the two that don't have
5 harvestable wood on them? What do you find there?
6 What's growing in the bush?

7 A. A lot of underbrush. Back in about
8 1975, we started a tree planting operation there and I
9 would say in the last -- since then we have planted
10 probably in the neighbourhood of around 800 to --
11 800,000 to a million trees there in the last -- since
12 '75. We have some poplar left and basically that's
13 about it. You know, we don't have any conifers.

14 Q. Is there a present plan to harvest
15 the saw logs that you mentioned, the 2,000 cords that
16 are available?

17 A. Yes. And hopefully we will be doing
18 that this winter.

19 Q. And when that's gone, will that be
20 the end for now of on-reserve logging opportunities?

21 A. Yes.

22 Q. Are there plans that you know of for
23 further forestry operations once that's finished; in
24 other words, operations off-reserve?

25 A. Well, in -- yes, there is. You know,

1 providing we can get some co-operation from both the
2 Ministry and, you know, Boise Cascade.

3 In 1983 to 1985 we had an off-reserve
4 logging operation that we negotiated with Boise and
5 with the Ministry. In those three years of operations,
6 we cut about 3500 cords. Then, you know, I got out of
7 the logging operations on the reserve and, you know,
8 for whatever reasons the logging just stopped.

9 But in terms of, you know, in terms of
10 what we have planned for the future, I think we, you
11 know, we are talking to Natural Resources. You know,
12 we've been advised that there is a limit that's coming
13 up that's going to be up for bids. Again, I don't know
14 how successful we're going to be but we're certainly
15 going to be putting our bid for that.

16 Q. I want to talk a little bit about the
17 basic economic situation of the communities that live
18 at Seine River Reserve. What is the main employment?
19 What's the main source of income for the on-reserve
20 residents?

21 A. Well, you know, maybe I can answer
22 that in a sort of a different way.

23 At one time I think Seine River had one
24 of the most experienced loggers in the whole area and I
25 think it's, you know, it's very disheartening, it's

1 very discouraging to, you know, to see these guys that
2 were once professional loggers, you know, have to rely
3 on welfare to, you know, to get their income, if you
4 want to put it that way.

5 And it's only because that, you know, we
6 have been unsuccessful in trying to negotiate with the
7 Ministry of Natural Resources, you know, for cutting
8 areas. And you know, I think the, I feel very, very
9 angry at times at the Ministry because of the way that,
10 you know, they have approached the whole logging
11 industry where, you know, they have, you know, all this
12 machinery that's going in that's taking jobs away from,
13 you know, people such as us and you know, it's -- but
14 again, you know, that's your -- it's only one
15 particular Band that's trying to fight the, you know,
16 that's trying to fight the Ministry and, you know,
17 trying to negotiate with them and, you know, we just
18 can't seem to get anywhere with them.

19 So, at one time, you know, logging was
20 the, you know, was the economic base for our community.
21 A lot of our people logged all their lives; that's all
22 they know. And to all of a sudden because we cut out
23 all of the wood from our reserves that, you know, we're
24 just not given any opportunity to go anywhere else, and
25 that's, you know...

1 Q. There is a mention in the witness
2 statement about one off-reserve contract where money
3 was lost on the contract. Did you know about that one?
4 Do you have any information about that particular one?

5 A. No.

6 Q. It also says in the witness statement
7 that a few members of the community work off-reserve in
8 cutting operations. Is that still the case?

9 A. Well, you know, I don't think to any
10 point where it, you know, it has any real financial
11 gain for anybody. I think, you know, they just go and
12 work for, you know, two or three weeks or a month and
13 that's it. Then they have to come back on the reserve
14 again.

15 Q. You have mentioned the desirability
16 of getting contracts and the problems, or the fact that
17 there have been problems. What I would like you to
18 tell me is what do you think are the most important
19 obstacles or problems to overcome in order for Seine
20 River to get good, large off-reserve contracts in the
21 forestry business?

22 A. Well, I think there is, you know,
23 there is a couple of things I think we, you know, I
24 think the Ministry and Boise have to sit down and, you
25 know, and negotiate with us in good faith. I've

1 personally approached the, you know, the Ministry on
2 numerous occasions to try and get, you know, cutting
3 areas for our Band.

4 I think the, you know, the only answer I
5 got that they, you know, they're going to look into it
6 and get back to me and that still hasn't happened. You
7 know it's the same with Boise. You know, we talked to
8 them about, you know, getting cutting limits on their
9 areas and, you know, were told the same thing. So, you
10 know I don't think we're being -- we're being dealt
11 with in a serious manner.

12 I think the other thing that, you know,
13 the other big thing that stops our loggers from going
14 anywhere is the, you know, is the compensation rate
15 that, you know, loggers have to pay now. You know,
16 they pay around 17-1/4 per cent. You know, that's your
17 compensation rates and any new logger that has to pay
18 that in advance, so it's -- I think it's a kind of a
19 ridiculous situation.

20 MADAM CHAIR: Excuse me, Mr Potson. Is
21 that for workers -- for the Workers' Compensation
22 Board?

23 THE WITNESS: Yes.

24 And when, you know, when somebody wants
25 to go to work on Boise limits, the contractors there,

1 you know, they will not hire anybody who does not have
2 compensation coverage. And they, you know, they won't,
3 you know, cover compensation for the loggers.

4 MR. COLBORNE: Q. How exactly does it
5 work then? If you were a logger, what do you have to
6 do before you're covered and before you can get a job?

7 A. Well, you know, not having been
8 involved in it personally, I think, you know, from what
9 I can gather from, you know, from our loggers is that
10 if they are going to go in there and sort of
11 sub-contract for a contractor, you know, and they get
12 an amount of wood that, you know, they are going to cut
13 that they pay on, on that amount, you know the 17.25
14 per cent, which as I know has to be paid in advance
15 which again it's a -- you can imagine the amount of
16 money that you have to pay if you have got a, if you
17 got a sub-contract for, you know, for a thousand cords
18 of wood. That's, you know, an awful pile of money.

19 And we also have, you know, I don't
20 know -- again from what I can gather from our loggers
21 is that they need a certificate now to, you know, to
22 even be allowed in the bush. I think that's -- again,
23 that whole process sort of took place behind, you
24 know... And native people not being involved in that.
25 And these are some of the things that, you know, I

1 constantly, you know, argue with the MNR. You know, if
2 they are putting new policies in place, we seem to be
3 left out of the whole process.

4 Q. That certificate you mentioned, is
5 that some kind of a document from the government saying
6 that you're qualified to work in the bush?

7 A. Whether it's from the government or
8 from, you know, the Ministry of Labour, I don't know
9 just who issues the certificate.

10 Q. Do you know anything about how you go
11 about getting it?

12 A. Not -- I don't know the specifics of
13 how you do it, but I know you have to do it.

14 Q. You mentioned that there are quite a
15 number of people who live on reserves who were formerly
16 forestry workers.

17 A. Hm-hmm.

18 Q. Are there any young people going into
19 forestry at the present time?

20 A. Well, not really, you know. I don't
21 think, you know, if the areas are not available, then,
22 you know, I don't think there is any, you know, there
23 is any incentive for any of the younger people to get
24 into logging. Certainly the, you know, we had had some
25 younger people try to apply for work, you know, with

1 other outside contractors and, you know, they weren't
2 very successful.

3 Q. Do you have any opinions as to why
4 they weren't successful? Or any information about
5 particular cases?

6 A. Well, I think, you know, the -- like
7 a lot of the contractors now, sub-contractors, you
8 know, they want to hire people with, you know, their
9 own machinery. Granted we do have, you know, three or
10 four people that have their own machines and again the,
11 you know, the thing that's holding them back is the --
12 things like the compensation issue and, you know...

13 But, no, our younger people don't seem to
14 want to become involved in logging. And, you know, I
15 think until times change when, you know, we can get
16 submission contracts from MNR or Boise, then I think
17 the whole forestry logging issue is going to be just at
18 a standstill, right.

19 Q. What kinds of things do the young
20 people on-reserve go into nowadays if it's not
21 forestry?

22 A. Well, we have, you know, we have
23 small tree planting operations on-reserve. We have,
24 you know, hand tending. And in terms of, you know, in
25 terms of forestry, those are about the limits of, you

1 know, our involvement in forestry.

2 We do have some people that, two or three
3 people that are doing a little bit of saw logs on the
4 reserve. You know, whatever is left, that's the only
5 thing that wasn't, you know, that wasn't cut. When I
6 mentioned earlier the, you know, like the two areas
7 that were cut, you know, those were all the conifers
8 and the, you know, the poplar were cut, but the saw
9 logs still remain and that's what they are, you know,
10 they are just chipping away at now.

11 Q. Setting aside forestry for a minute,
12 what opportunities are there for young people at the
13 present time just moving into the workforce who stay on
14 the reserve or in the vicinity of the reserve? What
15 kind of jobs are out there?

16 A. You know, basically there isn't
17 anything. You know, I think it's a very, very, you
18 know, sad situations and, you know, I think it's like
19 that on most of the communities around here. And, you
20 know, you look at the -- you look at the type of things
21 that are available, you know, that could be available
22 to native people and, you know, they just aren't.

23 Q. There is a paragraph in the witness
24 statement which says that in past years couples would
25 often work in the bush for years and they would stay in

1 bush camps or near bush camps for large parts of each
2 year. But that just doesn't happen any more. Do you
3 agree with what it says in there?

4 A. I think when, you know, when we were
5 first involved in logging, I know there used to be
6 camps like that. You know, I think one of the
7 contractors was a gentleman by the name of Angus
8 McAvoy. He use to log in the Glenorchy area. He used
9 to hire a lot of the native people and they used to go
10 into the bush and stay there and actually live out
11 there.

12 Q. And did they make a living that way?

13 A. I think so, yeah. You could say
14 that.

15 Q. But there is no more of that now?

16 A. No.

17 Q. Was that considered a good living
18 back in those days?

19 A. Well, I think they, you know, they
20 certainly considered it a good living, yeah.

21 Q. How long ago are we talking about
22 now?

23 A. Probably around fifteen, about
24 fifteen, twenty years ago.

25 Q. You have mentioned the people who

1 live on the reserve now and who used to work in
2 forestry but no longer do. Were you referring to any
3 of those people who you have just spoken of?

4 A. Some of them, yes.

5 Q. What is the state of the fishing,
6 trapping, wild rice, hunting and so on in the area of
7 your reserves? Is the wildlife and the traditional
8 food sources, are they still reasonably accessible and
9 reasonably -- in reasonably good condition?

10 A. Yeah, I think they are. You know, in
11 terms of trapping and, you know, the forest industry, I
12 think there is a major concern with our trappers. A
13 lot of their areas are, you know, are being cut over,
14 which results in, you know, your land animals moving
15 out of the, you know, moving to other areas.

16 We tried, unsuccessfully, this past
17 winter to try to get compensation from Boise Cascade
18 for, you know, for that particular problem. And again,
19 you know, we didn't -- we made the issue personal to
20 Natural Resources and, you know, I certainly feel that
21 we never got, you know, any support from them, you
22 know, in terms of trying to -- in terms of trying to
23 get compensation for our trappers.

24 We have 11 registered traplines, trapline
25 holders on Seine River, both in the Fort Frances and

1 Atikokan district, and we even have one in the Thunder
2 Bay district. And I think a lot of the, you know,
3 about 90 per cent of the trappers have problems with
4 that and, you know, I think eventually they are all
5 going to have problems with it. Again it's another
6 concern that we have and nobody seems to want to do
7 anything about it.

8 Q. What steps did you take to try to get
9 compensation?

10 A. Well, we met with the Minister here
11 and... In fact, they came out to our community and,
12 you know, the acting district manager here, and we told
13 her of the, you know, the concerns that we had and, you
14 know, in trying to see what, you know, the Minister
15 could do about it in terms of, you know, putting some
16 type of pressure on Boise to, you know, compensate the
17 trappers for, you know, loss of income.

18 Again, you know, they told us that they
19 would talk to Boise and, you know, and get back to us
20 and that never really happened. So in the meantime,
21 you know, some of the non-native trappers were trying
22 to do the same thing and, you know, we heard through
23 them that, you know, Boise wouldn't consider giving,
24 you know, compensation to any trapper. You know, so we
25 sort of felt that if Boise wasn't going to give

1 compensation to non-native trappers, then they
2 certainly weren't going to give it to the native
3 trappers.

4 Q. Are you yourself a trapper?

5 A. Yes.

6 Q. Was your own trapline affected by
7 cutting?

8 A. Very much so.

9 Q. Did you receive any prior warning or
10 notice that there was going to be cutting?

11 A. Well, they have the, you know, they
12 have the, you know, the 5-year plans that people like
13 trappers are invited to, you know, to come and sit in
14 and make comments on.

15 But, you know, I found that the, you
16 know, that it doesn't spell out which particular areas
17 are going to be cut out and, you know, to what extent.
18 Like, you know, in these cases, you know, it's -- they
19 were all clear-cut and like I knew the amount of wood
20 that, you know, was going to be taken out. I even sort
21 of knew what area, you know, how big of an area was
22 going to be cut out.

23 What I didn't know was that, you know,
24 how it was going to be clear-cut and, you know, it
25 just -- and when you have that, you know, there is

1 nothing that goes in there.

2 Q. I'm sorry, you said there is nothing
3 that goes in there?

4 A. I mean, you know, the animals. There
5 are no land animals that go in there. Certainly the
6 beavers don't go in there until after, you know, after
7 a few years when the underbrush starts growing up
8 again.

9 Q. Are you still trapping that line?

10 A. Yes.

11 Q. What happened to production?

12 A. Well, it went way down in terms of,
13 you know, in terms of land animals, you know. And
14 certainly, you know, the beavers -- the beaver
15 population is down.

16 Q. Yours was not the only trapline; I
17 know you have already told us that. But were the
18 others as badly cut over as yours?

19 A. I think there is a couple of them
20 that are worse than mine, you know, in terms of, you
21 know, clear-cut. Some of them are not as, you know,
22 badly affected but I think, you know, the concern is
23 still there because at some point in time they, you
24 know, they are going to go in there and clear-cut those
25 particular trap lines also.

1 Now, in terms of fishing, you know, there
2 is really no major concern there.

3 Q. Is there any commercial fishing in
4 the Seine River area?

5 A. We just, we just were -- again, we're
6 in the process of negotiating a commercial fishing
7 licence with MNR. Again providing we can get the funds
8 for that, we -- it looks very good.

9 Q. What water area?

10 A. On Rainy Lake.

11 Q. And is that an area that is or would
12 be affected by the forest industry at all?

13 A. I don't think so, no.

14 Q. What about wild rice? Is wild rice a
15 significant income earner or food source for on-reserve
16 residents?

17 A. Well, certainly a food source. It's,
18 you know, it's one of the main sources of food for our
19 people. You know, in terms of how forestry affects
20 that, you know, again, we have had areas where, you
21 know, where roads were put in and, you know, and people
22 have gone in harmed some of the, you know, some of the
23 wild rice stands that we've had. But not, you know,
24 not to any real major effects?

25 Q. The roads you are referring to, those

1 are the logging roads?

2 A. Hm-hmm.

3 We've yet to find out how areas that are
4 clear-cut, you know, affect a rice stand. We're
5 monitoring one lake right now that has wild rice and,
6 you know, the area -- the lake's been clear-cut all
7 around and, you know, hopefully in, you know, in a year
8 or two, we'll know what sort of effect it has on wild
9 rice stands.

10 Q. I understand you have a fair amount
11 of knowledge about wild rice; is that correct?

12 A. Yes.

13 Q. Just tell us where that knowledge
14 comes from.

15 A. Well, I've been involved in wild rice
16 for about 20 years now. Most recently we had a -- I
17 managed the Ontario Indian Wild Rice Development
18 Agency, which was a program that was put together by
19 the federal government to deal with wild rice issues
20 for, you know, native people in Ontario. And quite
21 successful. But again the funding ran out and we had
22 to cease operations on that too.

23 Q. What do you think the effect is, if
24 any, of forestry operations on wild rice production?

25 A. Well, again, you know, like I said

1 earlier, you know, the -- we're only aware of one
2 particular lake right now that has been clear-cut and,
3 you know, like I said, we're monitoring that lake, you
4 know, to see what kind of effects it would have.

5 I know for a fact that, you know, when
6 it's clear-cut like that, it's going to -- you're going
7 to have a problem with wind on wild rice stands
8 because, you know, when you have trees, they sort of
9 shelter the wild rice.

10 Again, you have, you know, a certain
11 amount of shade where, you know, in the spring, which
12 is the most crucial time for wild rice, you know. I
13 think the shade, you know, has a lot to do with, you
14 know, how the wild rice is going to grow. Again, we're
15 not, you know, we don't, like I say, we don't know how
16 this is going to affect it but, you know, certainly in
17 a year or two we will know. And again, what we'll do
18 with that, you know, that particular information that
19 we get will remain to be seen, I guess.

20 Q. Who is it that's doing the
21 monitoring?

22 A. Well, I, myself, and I have Dr. Peter
23 Lee from Lakehead University. I've worked with him for
24 the last seven years and he's going to be coming out to
25 this particular lake, you know, this summer sometime,

1 you know, to take photographs and stuff like that.

2 Q. Do I gather correctly from what you
3 have just told us that it's not really known right now
4 what the effect of clear-cutting around a lake is on
5 wild rice production on that lake?

6 A. No.

7 Q. It's just something that --

8 A. No, I'm not aware of anybody that has
9 that kind of information, and I have asked, you know,
10 Dr. Peter Lee if he had any and he wasn't aware of any
11 information like that.

12 Q. Is hunting still an important
13 economic factor at Seine River, at least for food?

14 A. Oh, very much so. I think the, you
15 know, again, the -- I guess the concern that we have,
16 you know, with hunting and, you know, and the -- our
17 people and the, you know, the food stuff that it
18 provides. Like I think south of us they are going
19 through the, you know, the clear-cutting procedure
20 there.

21 I think north of us, they, you know, they
22 sort of cut all that could be cut there. The only area
23 that's really not being, you know, that's really not
24 being cut is west -- east of us. No, west of us,
25 pardon me. Then, you know, east of us you have, you

1 know, you have the Seine River and I know there is not
2 too much logging going on there.

3 Q. Now what effect does the logging have
4 on hunting?

5 A. Well, I think, you know, if you
6 clear-cut an area, you are -- again your animals are
7 going to go. You know, you just -- there is not going
8 to be nothing there to hunt.

9 Q. When you were involved with cutting
10 operations on-reserve, did your crews do any
11 clear-cutting?

12 A. No, I think we, we sort of just had a
13 clean-up operation, okay. Because as I said earlier,
14 you know, we had a gentleman in there logging for quite
15 a number of years that took the, you know, the good
16 areas and that's where he... So when we went in, we
17 just sort of, you know, sort of cleaned up, you know,
18 where we could scarify the cut-overs and, you know,
19 plant some trees.

20 Q. Sir, did you look at the witness
21 statement, pages 28 and 29, the outline of the
22 situation in regard to Seine River?

23 A. Hm-hmm.

24 Q. And when you looked at that, did you
25 see any major errors or omissions, particularly having

1 to do with forestry?

2 A. Well, again, you know, it certainly
3 doesn't paint the, you know, the whole picture. You
4 know, there is a lot more, you know, there is a lot
5 more to it than what's in the statements there.

6 Q. You would be the one who would have
7 that additional information. And so is there -- are
8 there other points that you think are important that
9 you believe the Board should hear, particularly having
10 to do with forestry?

11 A. Well, I think the, you know, I think
12 the Ministry has got to deal with native people in a
13 sincere manner; and by that I think we need, you know,
14 native people need areas to cut on Crown land. I think
15 in terms of, you know, in terms of management, I think
16 we have that. Either we have, you know, if you don't
17 feel comfortable with that, we also have -- my Band is
18 involved in a 502133, which is a native-owned business,
19 that's involved in, you know, forestry operations such
20 as, you know, tree planting, scarification, hand
21 tending.

22 And certainly if they don't have the, you
23 know, if they don't have the confidence in the, you
24 know, individual native bands, you know, from
25 management then, you know, certainly these people here

1 do have the capabilities of, you know, of management.

2 And I think, you know, I can't, you know,
3 I can't emphasize strongly enough the, you know, the
4 need for, you know, this type of serious talks between
5 native people and the Ministry because, you know, if
6 we're going to, you know, if we're ever going to be
7 economically viable as, you know, as native people,
8 then we have to be given the opportunity to, you know,
9 to get areas like this and to be involved in, you know,
10 in the forestry industry.

11 And I think the Ministry is the, you
12 know, is the major player that can do something about
13 that. You know, we've had -- the Ministry has, you
14 know, the DCL system now which is the district cutting
15 licence and, you know, we've had people since '83 that
16 have been trying to get in on the draws on those and
17 they have been unsuccessful. You know, I don't...

18 You know, it's getting to a point now
19 where you have to ask yourself where do you go from
20 here? You know, you have exhausted all the avenues in
21 terms of, you know, trying to negotiate faithfully with
22 the Ministry and you're not getting anywhere. And, you
23 know, I really don't know where, you know, unless they
24 start taking us seriously and, you know, talk to us in
25 good faith and, you know, I really don't know where

1 native people are going to go.

2 Q. If it isn't in forestry, what else is
3 there in terms of natural resources?

4 A. Well, I really don't think there is
5 anything. You know, we have, you know, we make work
6 programs which are just, you know, as far as I am
7 concerned are just Band-Aid solutions and until we get
8 into some meaningful, you know, constructive type of
9 operation such as logging, you know, it's -- I don't
10 know where we go from here.

11 Q. Did you have anything else you wanted
12 to add, sir?

13 A. No. Other than the fact that, you
14 know, again, I can't, you know, emphasize strongly
15 enough that, you know, we're heading now in a very
16 disastrous, you know, situation because if people
17 aren't working, then, you know, your most obvious
18 answer to not working is, you know, is putting people
19 on welfare. And that certainly, like I said earlier,
20 you know, we have professional loggers on the reserve
21 and it's, you know, it's really disheartening to see
22 them, you know, have to go to the welfare and, you
23 know, or get their living from there.

24 I think that's all I have.

25 Q. One question occurs to me. Based on

1 your long experience in forestry, is there anybody from
2 Seine River working or has ever worked hauling wood?

3 A. We have ourselves. You know, as a
4 Band we had our own truck, our own loader, and again,
5 you know, when you don't have the volumes of wood, you
6 know, to haul, then, you know, that becomes an unviable
7 operation also.

8 Q. How many miles or kilometres is Seine
9 River from Fort Frances?

10 A. Well, we're about 90 kilometres. The
11 logging operations that we had, you know, we -- on the
12 reserve was, you know, probably about 7 or 8 miles
13 further than that probably.

14 Q. Would I be correct that the wood cut
15 in your area almost entirely ends up at Fort Frances?

16 A. Yes, a good portion of it.

17 Q. And that's transported by highway?

18 A. Hm-hmm. Yes.

19 Q. Who does most of that hauling?

20 A. Well, we had, over the past years
21 we've had a number of people haul wood for us. I don't
22 know if I can name all of them. Certainly Nick Worenco
23 (phoen.) was one of the people. Hicki Lampi (phoen.).
24 There's quite a number of them.

25 Q. I don't think my question was clear.

1 I was talking about wood cut by anybody, whether by
2 yourselves or by non-Indian contractors or by Boise
3 Cascade. Whoever cuts it in the Seine River area, how
4 does it get hauled to the mill in Fort Frances? I know
5 it's by truck. But who runs these operations? Is it
6 people who live in the Fort Frances area, people who
7 live in the Seine River area, or who does it?

8 A. Well, I think, you know, most of the
9 guys that I mentioned are from, you know, the Fort
10 Frances area.

11 Q. Is there any particular reason why
12 members of your community don't participate in that
13 part of the forest industry; that is, the hauling part?

14 A. Well, again, you know, first of all,
15 you know, the size of our truck is, you know, is very,
16 very small and it doesn't, you know, it wouldn't -- it
17 probably wouldn't be viable to put that into a, you
18 know, an operation where, you know, you have trucks
19 that are hauling, you know, 20, 22 cords per load.

20 In terms of our people going into or
21 getting jobs as truck drivers, you know, it's the same
22 situation. When you look at the amount of non-native
23 people that are applying for the same jobs, you know,
24 you pretty well have a good idea where the jobs are
25 going to be going.

1 Q. Why is that?

2 A. Well, I think, you know, I think
3 history speaks for itself. Like, you know, it's always
4 been like that. When we have tried to apply for jobs,
5 you know, if there is non-native people there applying
6 for the same things, then they are going to get it.
7 You know, it's a sad fact of reality but that's, you
8 know, that's the way it is.

9 Q. I may have one more question. If I
10 could just see the most recent exhibit.

11 MADAM CHAIR: Which one is that, Mr.
12 Colborne?

13 MR. COLBORNE: That's the notice that Mr.
14 Freidin filed of the public hearings.

15 MADAM CHAIR: Exhibit 1885.

16 MR. COLBORNE: Q. Mr. Potson, I want you
17 to look at Exhibit 1885. On top of it there is an
18 affidavit of service and under that affidavit there is
19 a lot of documentation having to do with notices that
20 went out to many, many people, to many, many offices
21 and were published in newspapers. The offices include,
22 according to Exhibit D, the offices of various bands
23 including the Seine River Band.

24 And I am not asking you to read it in any
25 detail, but it seems to me that given the experience

1 that you have had and the things that you have told us
2 about, you may be able to shed light on the following
3 question or the following topic: When that kind of
4 notice is out there, whether in the newspaper or
5 received in the mail, do you think it's effective on
6 the Seine River Reserve, or if you care to generalize
7 about other Indian reserves in the area, to get the
8 point across? And if not, why not?

9 A. Well, you know, I certainly can't
10 speak for other bands but, you know, in our own
11 particular case I think, you know, when a notice does
12 come to, you know, to our Band office, you know,
13 chances are it's not, you know, it's not going to get
14 anywhere. Again, it's a sort of a negative comment
15 but, you know, I think I have to admit that, you know,
16 that's the case on our reserve.

17 Q. Is there a reason for that --

18 MR. FREIDIN: "I have to admit what...?"
19 I didn't hear the answer.

20 MR. COLBORNE: I believe he said that
21 that would be the case on his reserve.

22 MR. FREIDIN: All right. Thank you.

23 MR. COLBORNE: Q. Are there reasons or
24 is there a reason that you can identify for that?

25 A. I'm really not, you know, I'm really

1 not too certain. I guess I'm, you know, probably just
2 as guilty of that, you know, as anybody else because,
3 you know, it's -- being on the Band Council, maybe I
4 should, you know, take a little bit more -- try to do
5 something about that.

6 But again, you know, I'm not necessarily
7 in, you know, in receipt of all the correspondence that
8 comes to the Band also, so I'm really, you know, I
9 really don't know what I can do to, you know, other
10 than enquire with the person that picks up the mail to
11 see what, you know, what should be sent out to Band
12 members.

13 Q. You mentioned that when the cutting
14 plans became known - and these are the ones that
15 ultimately resulted in clear-cutting on your trapline -
16 that there was a meeting of some kind. And I believe
17 you said that you attended that meeting?

18 A. I went to a couple of them in the
19 last, you know, in the last few years now.

20 Q. But I also believe you said that
21 there was not detailed information available so you
22 wouldn't know exactly what was going to happen to your
23 trapline?

24 A. Well, I think in general, you know,
25 you sort of, you know, you can sort of see what, you

1 know, what they are going to do. But all I said was
2 that I didn't, you know, I didn't realize that, you
3 know, the areas would be clear-cut, you know, and
4 for -- and in my particular case for, you know, for
5 miles.

6 Now, you know, when they say they are
7 going to go in and cut, you know, 5,000 cords of wood,
8 you know, I don't think they spell out on a map exactly
9 where, you know, where it's going to be cut.

10 Q. The reason why I bring you back to
11 what you said about that meeting, or those meetings, is
12 because I wanted to ask you whether you thought that
13 those were a good way to get information across to
14 members of your community?

15 A. No, not at all. I think, you know,
16 if -- again, if they are, you know, if they are serious
17 about, you know, getting the native issues or native
18 concerns, you know, known, then I think they should
19 come onto the reserves and, you know, have their
20 meetings there.

21 You know, we have a number of people that
22 are interested in what happens to the, you know, to the
23 woodlands around our area. And, you know, and when you
24 have native people, and this is, you know, again in
25 general, when you have native people mixed with

1 non-native people, you know, chances are the non-native
2 people -- I mean the native people are not going to
3 speak up. Again that's something else that, you know,
4 another sad fact of reality.

5 But, you know, when you do have -- when
6 they are given the opportunity to speak in front of
7 their own people in their own environment, then, you
8 know, they are comfortable with that and they will
9 speak up. But again the Ministry chooses not to come
10 out to the reserves to do these types of things.

11 MR. COLBORNE: Thank you. Those are my
12 questions. There will be some other questions I
13 believe.

14 MADAM CHAIR: Thank you, Mr. Colborne.

15 Before we turn to Mr. Cassidy, I wanted
16 to ask you, Mr. Potson, whether you agreed with some
17 other suggestions that have come from other witnesses
18 on your panel. Certainly you agree with the suggestion
19 that MNR would hold open houses on Indian reserves
20 that would be affected by future timber management
21 plans in the area.

22 The suggestion has also been made that
23 while MNR should continue mailing notices to Band
24 offices, however widely dispersed those notices might
25 be or read at the time, we will set that aside. But at

1 the same time, there should be an individual at MNR who
2 would be the contact person for the Band. In other
3 words, rather than relying totally on mailed
4 information, the Seine River Band would have one person
5 at MNR to talk to and get information on what was going
6 on with timber management planning in that area.

7 Do you think that would be a helpful way
8 to operate?

9 THE WITNESS: Well, again, you know,
10 it's, you know, if it's going to be a token position
11 then no.

12 MADAM CHAIR: I don't think the idea was
13 that it would token. It would be a forester at MNR who
14 would perhaps be able to cut through some of the paper
15 and describe very quickly what a situation might be
16 with any timber management plan.

17 THE WITNESS: You know, if you -- if it
18 was to go in place the way you are explaining it, then
19 certainly it would be a good, a step in the right
20 direction.

21 MADAM CHAIR: Thank you.

22 Mr. Cassidy?

23 CROSS-EXAMINATION BY MR. CASSIDY

24 Q. I think you told Mr. Colborne, at
25 least my note reads, that native people need areas to

1 cut on Crown lands. And you also said that you wanted
2 to be involved in the forest industry. I take it then
3 from those remarks that you want to see more logging,
4 not less?

5 A. Well, you know, again, you know,
6 right now more logging is, you know, more than nothing
7 that we, you know, we virtually have no logging right
8 now.

9 Q. So, you don't want to keep the
10 present situation of no logging, you want to increase
11 logging; correct?

12 A. Well, I think, you know, for economic
13 purposes, yes.

14 MR. MARTEL: Could I ask a question? I
15 want to get this clear. Do you want to see more
16 logging or do you want a share of the existing logging?

17 THE WITNESS: Yes.

18 MR. MARTEL: Which position would you
19 prefer: a bigger share of the existing logging or more
20 logging? I mean they are quite distinct.

21 THE WITNESS: I would say, you know, a
22 share in what is being logged right now.

23 MR. MARTEL: Fine, thank you.

24 MR. CASSIDY: Q. You wouldn't want to
25 see any reduction of the logging in your area though,

1 would you, by anybody?

2 A. No.

3 Q. Which is an important point.

4 A. Hm-hmm.

5 Q. So you are not in favour of someone
6 suggesting there should be no logging in your area by
7 anybody?

8 A. No.

9 Q. And you talked about the certificate
10 that people need to be involved in logging. My
11 information is that that certificate relates to a
12 certificate that is required to be obtained that shows
13 that you -- a person is taking safety training and
14 skills training to be qualified as a logger, a cutter.

15 You are not suggesting, are you, that
16 your Band should not be required to have those safety
17 training or skills training courses?

18 A. Not at all.

19 Q. So then you would agree that your
20 band members should be required to obtain that
21 certificate if they are going to work in the logging
22 industry?

23 A. Sure, you know, but I also would like
24 to say that, you know, I think again, there is, you
25 know, a case of, you know, not communicating with the

1 Band in terms of, you know -- like this has come as a
2 surprise to many of our loggers that we had to all of a
3 sudden take this certificate to be involved in the
4 logging process.

5 Q. And you were talking about logging
6 and you talked about the clear-cutting, and you said
7 something about beavers going in after a few years when
8 the underbrush grows up, grows again. What other
9 animals go in after a few years other than beavers?

10 A. Well, other than, you know, your
11 water animals, which are basically your otter, your
12 mink, you know, those would, you know, they have to
13 have some kind of coverage in order to, you know, in
14 order to go into any area. Your land animals
15 certainly, you know, where there is no trees, they are
16 just not going to go in there.

17 Q. So what other animals do go in after
18 a few years other than the beaver?

19 A. That's about it until your trees do
20 grow back. That's when your land animals will go back
21 in.

22 Q. Moose?

23 A. Moose will go in a while, you know,
24 when your underbrush is starting to grow up.

25 Q. So in addition to beaver you get

1 moose?

2 A. Yes.

3 Q. Deer?

4 A. Deer.

5 Q. So that the hunting opportunities do
6 return after few years?

7 A. Oh, yes. After a few years, yes.

8 Q. So, it's not a matter of their never
9 being back again; is that correct?

10 A. Yeah, probably. Yeah.

11 Q. In fact after a few years can be as
12 little as 4 or 5 years? Or less?

13 A. Well, again, you know, I really can't
14 can't answer that because, you know, I'm sort of basing
15 my knowledge of the thing as to, you know, with some of
16 the areas that, you know, that have been cleared quite
17 a few years ago. And, you know, we talk to our
18 trappers on a regular basis and, you know, this is
19 where we get our information from.

20 Q. You can't say the number of years
21 then?

22 A. No, I don't think anybody can.

23 Q. Who is responsible for the management
24 of your reserve forest? Your Band?

25 A. Technically it's supposed to be the

1 Chief and Council.

2 Q. Of your Band?

3 A. Yeah.

4 Q. Reality?

5 A. Reality, I don't think there is any,
6 you know, because of the, you know, the situation, I
7 don't think there is really anybody. But, you know,
8 the only involvement that I got is, you know, because I
9 am on, you know, I'm on Council that, you know, I try
10 to negotiate with, you know, various people, not only
11 the Ministry but, you know, Ontario Hydro and, you
12 know, the Ministry of Transport and, you know,
13 different people like this.

14 Q. It's not the Ministry of Natural
15 Resources that's responsible for the management of the
16 forests on your reserve; right?

17 A. No.

18 Q. And it's not Boise Cascade or any
19 industry or company that is responsible for management
20 of forests in your reserve; right?

21 A. No.

22 Q. So, any decisions that are made are
23 ultimately the responsibility of your Band on your
24 reserve with respect to the forest management of your
25 forests?

1 A. You know, I guess if we had forests,
2 yes, it would be.

3 Q. I see.

4 In the past those forests have been under
5 the management of your Band; is that correct?

6 A. Yes.

7 Q. So, whatever the state of those
8 forests, your Band is responsible; correct?

9 A. Yes.

10 MR. CASSIDY: Those are my questions.

11 MADAM CHAIR: Mr. Freidin?

12 Oh, Ms. Gillespie, do you have a
13 question?

14 MS. GILLESPIE: No.

15 MADAM CHAIR: Thank you.

16 CROSS-EXAMINATION BY MR. FREIDIN:

17 Q. Mr. Potson, you had made reference to
18 certain portions of your trapline being cut over.
19 Could you give me any approximation as to the
20 percentage of your trapline which has been cut over in
21 the last ten years?

22 A. Not accurately, no.

23 Q. But if I suggest it was 10 to 15 per
24 cent at the most, would that be in the ballpark?

25 A. That might be a safe guess, yes.

1 Q. Now, you were asked a question by Mr.
2 Colborne. He asked you, "What is the state of hunting,
3 trapping, fishing?" He says, "Are wildlife and fish
4 reasonably accessible and in reasonably good
5 condition?" You said in response, "I think they are."

6 Then you went on - it took up a number of
7 pages of my notes - talking about the effect on
8 trappers of logging. And I took all your evidence that
9 I made notes of suggesting that the trapping has been
10 adversely affected by logging. That doesn't seem to be
11 consistent with your answer to the general question
12 that wildlife and fish are reasonably accessible and in
13 reasonably good condition. And I would like to know
14 which one is it? What is your evidence on that point?

15 A. Well, I think, you know, we're
16 talking about two separate areas here. You know,
17 on-reserve, you know -- but when I talk about the
18 traplines, we have traplines that are, you know, as far
19 as 60-70 miles from the reserve. And that's where, you
20 know, the forestry industry does have an effect on,
21 you know, on trapping and wildlife in general.

22 Like on the reserve where, you know,
23 where there is no more logging operations, you know, it
24 doesn't seem to have bothered us there.

25 Q. I see. Your comment about them being

1 "in reasonably good condition" was on the reserve?

2 A. Yeah.

3 Q. You mentioned in your discussion with
4 Mr. Cassidy about when wildlife will return to an area
5 after it has been logged. Could you confirm my
6 information that marten will return to an area once you
7 start getting partial closure, canopy closure?

8 A. Again, the, you know, I know that in
9 areas that they've logged, you know, fifteen to twenty
10 years ago, that those are just starting to come back in
11 now.

12 Q. So for marten to come back, you don't
13 have to wait for the trees to be 90 or 100 years old?

14 A. Well, again, you know, I don't know
15 that, sir.

16 Q. Okay.

17 Mr. Colborne asked you some questions
18 about ways of communicating with the Band in terms of
19 notice, giving you notice that certain things are
20 occurring, particularly in relation to timber
21 management plans.

22 I want to show you some correspondence.
23 Mr. Potson. These are letters which were sent from the
24 Ministry of Natural Resources to your Band. If we go
25 back, go to the third page, you'll see there is a

1 letter of January 17, 1991, sent by the acting district
2 manager in Fort Frances to your Band, which refers to a
3 workshop for district trappers. And the second
4 paragraph indicates that the workshop will address the
5 timber management planning process and in particular
6 the opportunities for input into the timber management
7 plan.

8 And then the other two letters, which are
9 not specifically addressed to these various bands, it's
10 my information that they went to all trappers in the
11 district and all bands in the district.

12 Are you able to confirm for me, sir, that
13 these letters were indeed sent to the Band and received
14 by the Band?

15 A. No, I can't confirm that.

16 Q. You can or cannot?

17 A. I cannot. But I can certainly
18 confirm that I received these letters and I know our
19 trappers received them.

20 Q. Now, I understand that the letters
21 were in fact received but there was very low attendance
22 or response to the workshop which in fact did take
23 place on April 18th. I am just wondering whether you
24 can advise me as to whether you know why there was such
25 a small response from your particular Band?

1 A. No, I don't know what the reasons
2 were.

3 Q. Did you go to the workshop?

4 A. No, I didn't.

5 Q. Is there any specific reason why you
6 didn't go to the workshop?

7 A. Because, you know, I probably wasn't
8 on the reserve.

9 MADAM CHAIR: Are we going to make that
10 correspondence an exhibit.

11 MR. FREIDIN: Yes, please.

12 MADAM CHAIR: That will be Exhibit 1886.

13 ---EXHIBIT NO. 1886: A letter from from the MNR,
14 dated January 17, 1991, sent
15 by the acting district manager in
16 Fort Frances to the Seine River
17 Band re. a workshop for
18 district trappers, as well as an
additional two letters sent to
all trappers in the district and
all bands in the district. Also
included is sample of the
attached form to be completed.

19 MR. COLBORNE: I'm wondering where the
20 form is that is referred to in the February 13th
21 letter, where it says "If you are interested in
22 attending, please fill out the attached form and return
23 it by March 1st."

24 MR. FREIDIN: I can speak to that
25 particular matter. I don't have the form. It is my

1 information -- and if you can confirm this you can do
2 so; if you can't, that's fine, Mr. Potson.

3 It is my information that notwithstanding
4 that the February 13th letter says that "We will be
5 sending letters out only to those who confirm that they
6 are interested by attaching -- putting in the attached
7 form" that in fact there were 23 people responded. But
8 notwithstanding that, the Ministry did nonetheless send
9 out notices to 197 trappers and all of the bands whose
10 names are attached to this exhibit.

11 MR. COLBORNE: Well, that wasn't my
12 question. I want to know where the form is. I want to
13 see where--

14 MR. FREIDIN: Well, if you want the form,
15 I will undertake to provide you with the form.

16 MR. COLBORNE: --it is that the trappers
17 have to fill out if--

18 MR. FREIDIN: All right. I will provide
19 you with the form. That's no problem.

20 MR. COLBORNE: --it is so important if
21 you want to attend the seminar. I want to know why we
22 don't have that here. If this is relevant, surely the
23 document that's referred to as the most important one
24 should be part of the exhibit.

25 MR. FREIDIN: I will undertake to provide

1 it if my friend thinks it's that important.

2 MR. COLBORNE: Well, I'm going to ask in
3 re-examination this witness whether -- certain
4 questions about that form and it would be easier if we
5 had it here.

6 MR. FREIDIN: Q. Well, Mr. Potson, when
7 you received this letter, do you remember there being a
8 form attached?

9 A. No, I am not certain on that, whether
10 there was or not.

11 Q. Do you recall having any difficulty
12 in understanding what the letter was all about?

13 A. Certainly not.

14 Q. Did you have any difficulty in
15 understanding that an offer was being made to assist
16 people who received the letter in understanding the
17 timber management planning process and the input they
18 could have? Did you have that understanding?

19 A. Yeah. But, you know, I've also got
20 to say that, you know, as I said earlier, you know, I
21 would say, you know, the reason for people not going to
22 that - certainly our native trappers - is again because
23 of the fact that, you know, they have a hard time
24 expressing themselves in front of, you know, non-native
25 people.

1 I don't know whether that was the, you
2 know, whether that was the sole reason for not, you
3 know, for them not attending but it certainly has a
4 bearing on, you know, how native people have responded
5 in the past.

6 Q. Mr. Potson, I take it from your
7 answer to a question from the Chair that you would be
8 pleased if the Ministry of Natural Resources actually
9 came to the reserve to present its timber management
10 plan at an open house?

11 A. Yes.

12 Q. And I take it that the appropriate
13 procedure to follow would be to have the Ministry
14 indicate that that opportunity was available to the
15 Band and that the Ministry would attend if the Band
16 requested the Ministry to attend? I mean, they
17 shouldn't just show up at the reserve. You should
18 actually tell the Ministry that you are interested and
19 arrange a date?

20 A. Well, sir, I don't think you should
21 treat us any differently than you do anybody else. If
22 you, you know, make your notices available to
23 non-native people, then I think we, you know, should be
24 treated the same way.

25 Q. Right. But usually what happens is

1 that there are open houses where are held, for
2 instance, in Fort Frances at the Knights of Columbus
3 Hall. It might very well be that the Seine River Band
4 would like to have a presentation because they're
5 interested in what timber management planning -- what
6 activities are being planned.

7 I just want you to confirm for me that
8 the Band would have to indicate to the Ministry that
9 they were interested in having a presentation on the
10 reserve before the Ministry would show up? Isn't that
11 fair?

12 A. Hm-hmm.

13 Q. Thank you.

14 When you went to these meetings where you
15 said that you had an idea about what was going to be
16 done in terms of cutting but you didn't know that the
17 areas would be clear-cut, did you ask anybody what sort
18 of cutting would be going on in the areas which were
19 identified for cutting?

20 A. No, I can't, you know, I can't recall
21 if I did or not.

22 Q. In relation to the monitoring that
23 you say is going to be going on by you and Dr. Peter
24 Lee, would you be willing to share the results of that
25 monitoring with the Ministry of Natural Resources?

1 A. Most certainly.

2 Q. And Dr. Lee is -- do you know what
3 department he is in or what his speciality is?

4 A. He is in biology and, you know, he
5 works with the -- he has the wild rice program with
6 Lakehead University.

7 Q. Okay.

8 If you could turn to your witness
9 statement just for a moment. On page 29, in the third
10 last paragraph, there is reference to the active
11 on-reserve silvicultural work. Do you have the witness
12 statement?

13 The third last paragraph, there is
14 reference to a number of activities which are being
15 undertaken actively on the reserve, and one of them is
16 winter blading. Could you explain to me what you mean
17 by that and why you do it?

18 A. Well, it's, you know, the
19 scarification process. You know, we find that it's a
20 lot easier to, you know, to do site preparations for
21 tree planting in the wintertime because, you know, you
22 take up all your, you know, all your bigger trees, you
23 know, come out a lot easier and, you know, it's just...

24 Q. Have you found that that has been a
25 successful way of site preparing? In other words, have

1 you found that the trees that you have planted after
2 that sort of operation have grown in an acceptable way?

3 A. Yes.

4 MR. FREIDIN: If I can just have one
5 moment, Madam Chair.

6 Those are my questions. Thank you.

7 MADAM CHAIR: Thank you, Mr. Freidin.

8 Mr. Colborne, we don't have the -- you
9 don't have the form here, do you, Mr. Freidin, for
10 Exhibit 1886?

11 MR. FREIDIN: We're just trying to get it
12 faxed.

13 MADAM CHAIR: I don't think you're going
14 to have it in the next five minutes, Mr. Colborne.

15 MR. COLBORNE: Very well. I had some
16 re-examination questions in addition to questions that
17 would have dealt with that form. So, if I may, I will
18 just proceed with re-examination.

19 MADAM CHAIR: Please go ahead.

20 RE-DIRECT EXAMINATION BY MR. COLBORNE:

21 Q. Mr. Potson, a couple of times now,
22 including in questions from Mr. Cassidy, this safety
23 training certificate you need has been mentioned. And
24 I realize that you may not -- in fact, you don't have
25 all the information about this; you have told us that.

1 But just one question. Do you know: Is there a
2 written test required to get that or a written
3 qualification?

4 A. All I am told is that there are a
5 number of questions that have to be answered and, you
6 know, they have to be answered in written form.

7 Q. A related matter --

8 MR. MARTEL: Before we move off that, Mr.
9 Colborne, I am a little at a loss as to how someone, if
10 they have to have written questions, I would like to
11 know first of all what language those written questions
12 are in if that's the case --

13 MR. COLBORNE: I was just going to
14 proceed with that.

15 MR. MARTEL: Oh, pardon me, I wasn't sure
16 you were pursuing --

17 MR. COLBORNE: I wanted to get to it this
18 way, but if you want me to go straight to that, Mr.
19 Martel...

20 I will tell you what I was going to do
21 though. I was going to ask a similar question about
22 the form we've referred to and speak in terms of actual
23 trappers so we can find out from Mr. Potson if he knows
24 which of these individuals are fluent in written
25 English, so we can actually associate the question with

1 particular individuals. That's what I was proposing to
2 do, but...

3 MR. MARTEL: Fine.

4 MR. COLBORNE: Q. Mr. Potson, could you
5 look at the list of trappers at the back of the
6 collection of letters that you were just given.

7 MADAM CHAIR: Excuse me, Mr Colborne,
8 this has nothing do with the Ministry of Labour's
9 safety certificate; that you're trying to make the
10 point that if the trappers in this Seine River Band
11 couldn't understand this notice from MNR, that that
12 would apply equally to the certificate issue?

13 MR. COLBORNE: I was going to ask a
14 question on that because I realize the trappers are not
15 necessarily the same as the candidate bush workers.
16 But without going through a long series of questions, I
17 hoped to at least approach the topic in that way, which
18 might give us a general answer.

19 Q. So, Mr. Potson, do you see in that
20 list of names persons who are members of the Seine
21 River community and are trappers?

22 A. Hm-hmm. Yes.

23 MR. FREIDIN: We tried to identify that
24 by the stars.

25 MR. COLBORNE: Okay.

1 Q. I see that some of them have stars.
2 There is Richard Cupp, Joe Cupp; is that correct?

3 A. Hm-hmm.

4 Q. Then Boudreau Frank -- or Boudreau
5 Friday, sorry?

6 A. Hm-hmm. Yes.

7 Q. Tom Johnston Junior?

8 A. Yes.

9 Q. Ray Kabatay?

10 A. Yes.

11 Q. Virginia Kabatay?

12 A. Yes.

13 Q. Joseph Whitecrow Junior?

14 A. Yes.

15 Q. Howard Willie?

16 A. Yes.

17 Q. And are there others?

18 A. Yes, there are quite a few of them.

19 From the Fort Frances district here, we
20 have seven registered trappers that have, you know,
21 registered traplines. I think some of the names on
22 this list here are just helpers or they trap
23 on-reserve. But the list that I've got here are
24 registered trappers that have registered traplines.

25 Q. Well, give me the names then that you

1 have in your list which are not the names that I just
2 read.

3 A. Okay.

4 We have Robert Spencer whose trapline
5 number is FF39.

6 MR. FREIDIN: Sorry, Robert...?

7 THE WITNESS: Spencer.

8 I think Boudreau Friday is on here and
9 his trapline number is FF42.

10 George Bushcagin (phoen.), who is not on
11 this list, is FF44.

12 And myself, FF49.

13 Howard Willie, FF51.

14 MR. COLBORNE: Q. I think he is on the
15 list. He is one of the ones that's starred on the
16 list, yes.

17 A. And Joe Whitecrow Junior.

18 Q. Okay. And he's on the list as well.

19 A. FF55.

20 And I think Tom Johnston's on here too.

21 Q. Yes, he is.

22 A. We also have George Jim. I don't
23 know what his trapline number is. He's out of the
24 Atikokan district office. So is Jack Johnston.

25 Q. Sorry, Jack Johnston?

1 A. Hm-hmm. He's also...

2 And we have Mike Kabatav, I think he's
3 out of the Thunder Bay district.

4 And the same with Jimmy Spoon; he's also
5 in the Thunder Bay district

6 Q. I didn't get the last name?

7 A. Jimmy Spoon, Jim Spoon.

8 Q. Jim Spoon?

9 A. Yeah.

10 And we also have one more: Archie Spoon,
11 who is also in Atikokan, also a member of the Seine
12 River Band.

13 Q. So, if I understand it correctly,
14 there are one, two, three, four, five, six, seven,
15 eight individuals starred on the list, and you agree
16 that they are trappers or trappers' helpers?

17 A. No, these are trappers, not helpers.
18 I think in our last trappers' meeting, we had something
19 like 21 helpers, I think, besides the registered
20 trappers.

21 Q. So, the ones that are starred on the
22 typed list are trappers?

23 A. Well, no, not -- some of them are
24 helpers.

25 Q. That's what I was getting at. The

1 ones on the typed list are either trappers or helpers?

2 A. Hm-hmm.

3 Q. And the names that you gave us in
4 addition to the ones on the typed list are all
5 trappers?

6 A. They are all trappers that hold
7 registered traplines.

8 Q. Okay. Now --

9 MADAM CHAIR: Excuse me, how many
10 additional names were there, Mr. Colborne? I didn't
11 actually count.

12 MR. COLBORNE: Nine.

13 MADAM CHAIR: Thank you.

14 MR. COLBORNE: Q. Mr. Potson, you told
15 us, or you said in response to Mr. Freidin's question,
16 that you had no trouble understanding the letter and
17 the form that you got in the mail. Do you know these
18 other trappers well enough to tell us anything about
19 whether they would have read and understood fully what
20 they got in the mail, assuming they all received it?

21 A. Again, I certainly don't like to, you
22 know, speak for anybody. But, you know, just as a
23 general comment, you know, I would say that there is
24 maybe one or two that may have difficulty with, you
25 know, with this. The only way, you know, they would be

1 able to find out exactly what it's about is if they,
2 you know, showed it to somebody else that might, you
3 know, that might understand it.

4 MR. FREIDIN: I have copy of the form.
5 It was one that was filled out by Mike Kabatav and sent
6 in.

7 MR. COLBORNE: Well, I would--

8 MR. FREIDIN: If you want extra copies, I
9 have extra copies.

10 MR. COLBORNE: --suggest that this be
11 part of the exhibit.

12 MR. FREIDIN: I have no problem here.

13 MADAM CHAIR: Thanks, Mr. Colborne. We
14 will append and not give it a certain number.

15 MR. COLBORNE: Q. Does that look like
16 the form that came with the letter that you received,
17 Mr. Potson?

18 A. Again, I am not, you know, I'm not
19 too certain but I -- no, I don't think I can comment on
20 that one way or the other. I am not certain.

21 Q. Let me ask you this: When you got
22 it, did you fill in the form, whatever form came with
23 yours?

24 A. No, I didn't. I don't recall filling
25 out any form like that.

1 Q. Do you recall why you didn't fill it
2 out?

3 A. Well, probably because I knew I
4 wasn't going to be here. In fact, I was quite away
5 from here when that was taking place.

6 Q. Now that we have that form, I wanted
7 to get back again to this question of the fluency of
8 members of the Seine River Band who would receive
9 written notices; that is, their fluency in written
10 English.

11 And if I understood what you just said a
12 moment ago, most of the trappers, as far as you know,
13 not really being able to say for sure, but most of the
14 trappers would have been able to read and understand
15 the letters; do I understand you correctly?

16 A. Yes.

17 Q. I wanted to go on to, or return to
18 the question of that safety training certificate. If
19 you took a number of bush workers or potential bush
20 workers at Seine River, would their level of fluency
21 with written English be generally on a par with that of
22 the trappers or better or worse or can you say?

23 A. Some of the loggers would have, you
24 know, would have difficulty with it, certainly.

25 Q. Now, going back again to the letters.

1 If you yourself had attended this meeting -- sorry,
2 this evening seminar, what would it have taken you to
3 do that? Simply travelling to Fort Frances? Or would
4 there have been more to it, just in terms of your cost
5 and time for you?

6 A. Well, you know, I think that, you
7 know, like I certainly don't have any, you know,
8 difficulty in, you know, speaking to anybody. But, you
9 know, I think the one -- one of the ones that I
10 attended are, you know, they tend to, you know, be
11 dominated by a few individuals. And, you know,
12 certainly I don't have nothing against that, you know,
13 and I think the sort of thing that would lead me to not
14 to attend this thing would be because of the fact that
15 I might not have time to, you know, to express my
16 concerns or...

17 Q. I want to now ask you a question that
18 arises from an answer that you gave to Mr. Cassidy. He
19 asked you something about whether you agree that all
20 logging in the vicinity of your reserve should be
21 stopped and your answer was "No."

22 My question to you is: If it was
23 stopped, what difference, if any, would it make one way
24 or another to Seine River, to the members of your
25 community?

1 A. Well, I guess, you know, maybe what I
2 was trying to say is that, you know, you can't stop
3 anything that's not there, you know, and I think that's
4 basically what the situation on our reserve is. You
5 know, other than the fact we've got one small area
6 that's left for logging and I think if, you know, if
7 that's the only avenue that we have in terms of, you
8 know, employment for our people, then certainly, you
9 know, we should go ahead and log it.

10 But I think the, you know, on two of our,
11 you know, the major parts of our reserve, you know,
12 there is no logging left to be done there.

13 Q. Maybe my question wasn't clear.

14 MR. CASSIDY: I am having trouble
15 hearing. Did you say on the reserve?

16 THE WITNESS: Yes, on the reserve. On
17 two of our, you know, like we have three portions of
18 our reserve and, you know, two of them are, you know...
19 The ones that are adjacent to the reserve are, you
20 know, are adjacent to the village are all cut out now.

21 MR. COLBORNE: Q. Mr. Potson, maybe my
22 question wasn't clear. I will try to shorten it down.

23 If there was no logging in the entire
24 area, that is, not just on-reserve but off-reserve,
25 what difference would it make to the community of

1 people who live at Seine River?

2 A. You know, if you are not going to be
3 involved it won't make any difference.

4 Q. My next question also has to do with
5 an answer, or answers, to a question, or questions,
6 from Mr. Cassidy. You said to him, if I recall
7 correctly, that ultimately or in fact the decisions
8 about on-reserve forestry in the past were made by the
9 Seine River Band. Do you recall that?

10 A. Hm-hmm.

11 Q. I want to ask you, first of all, did
12 your answer apply to all cutting that had ever been
13 done on the reserve?

14 A. No.

15 Q. Okay.

16 A. I was referring to the, you know,
17 when we were in control of our own logging operations.
18 You know, when the non-native contractor was in there.
19 I really don't know how the, you know, how the approval
20 system for logging or, you know, giving him a licence
21 was granted. I think that was done through the
22 Department of Indian Affairs. Again, I could stand to
23 be corrected on that.

24 Q. My next question has to do with an
25 answer that you gave to Mr. Freidin. He asked you if

1 you agreed that the percentage of your own trapline
2 that had been cut over was, if I remember the numbers
3 correctly, 10 or 15 per cent, and you said "Yes."

4 My question to you is: Are all parts of
5 your trapline productive?

6 A. Meaning?

7 Q. Well, we've heard evidence that
8 sometimes there is a swamp or that you just don't set
9 traps there because you are not going to get animals
10 or some other type of area that's not productive,
11 whereas you have the most harvest in certain areas of
12 the trapline as opposed to just spread evenly across
13 the whole area.

14 A. Well, certainly there is, you know,
15 in terms of, you know, in terms of land animals, you
16 know, wherever there is, you know, like a forested
17 area, I think they tend to, you know, they tend to be
18 there. I don't know. Like, I really don't know. I
19 really haven't looked at it, you know, from that angle.

20 Q. Okay. Well, maybe I'll just get to
21 the question I wanted to ask you, by way of
22 clarification.

23 Does the percentage figure that Mr.
24 Freidin referred to, that is, the 10 to 15 per cent,
25 does that apply to the productive area of your

1 trapline --

2 MR. FREIDIN: He just finished answering
3 the question that he didn't make a distinction. How
4 can you ask this -- ask another question. I mean, you
5 have got your answer, surely.

6 MR. COLBORNE: No, I don't think he did
7 answer. I'll go back to that earlier question then and
8 I'll keep asking until I get an answer.

9 MR. FREIDIN: Well, the purpose of reply
10 evidence is not to ask the question three or four times
11 until you get the answer you want, Mr. Colborne.

12 MR. COLBORNE: He talked about the land
13 animals. He said the land animals are spread evenly.
14 He didn't tell me about the swamp.

15 Q. Now either as other witnesses have
16 said --

17 MR. FREIDIN: Ask him about land animals
18 then. Don't put words in his mouth.

19 MR. COLBORNE: Q. Are there swamps on
20 your trapline where land animals are not captured by
21 you?

22 A. Well, maybe I can answer it this way.
23 Your marten, which is your, probably your
24 most, you know, profitable land animal, live in, you
25 know, jackpine- and spruce-forested areas. Now those

1 two species would happen to be the, you know, the
2 species that are cut off first in any, you know, in any
3 area.

4 In terms of swamps, again there is, you
5 know, there is various kinds of swamps. Like, you
6 know, we have, you know, you have spruce swamps where
7 you get trees to go up quite high. And other swamps
8 you have that are -- that trees will just grow to, you
9 know, a certain height and that's it.

10 Now, in those particular type of things,
11 I don't think you have, you know, too much land animals
12 there so, you know, they wouldn't be productive.

13 Q. The part that has been cut over on
14 your particular trapline, that is, the part that Mr.
15 Freidin was referring to, is that the same kind of land
16 as you have just now referred to as the part that tends
17 to be cut first, the part where the marten lives and so
18 on?

19 A. Yes, yes.

20 Q. And that applies to your particular
21 trapline?

22 A. Yes, very much so.

23 You know, I think that's one of the
24 reasons that we were trying to get compensation because
25 of the fact that, you know, the areas that are being

1 cut out now are our productive areas and that's, you
2 know, that was the sole purpose for trying to get
3 compensation.

4 Q. Let's go back again to these letters
5 that I think were filed as...

6 MADAM CHAIR: Exhibit 1886, Mr. Colborne?

7 MR. COLBORNE: Yes, 1886.

8 Q. You have been a trapper for quite a
9 few years, I take it?

10 A. Yes.

11 Q. When did you start getting letters
12 like this?

13 A. Again, I can't, you know, answer that
14 exactly. You know, it's been... I wouldn't even, you
15 know, I wouldn't even try to guess when I started
16 getting them. It would be, you know, probably be
17 incorrect information if I tried to do that.

18 Q. Well, maybe I should be more exact in
19 the question. Can you tell us when you first got a
20 letter addressed to you as a trapper telling you that
21 you had the opportunity to have some input into timber
22 management planning?

23 A. No, I can't. I can't recall that
24 either. I know the person that I went to was only a
25 couple of years ago.

1 MR. COLBORNE: Those are my questions in
2 re-examination. Thank you.

3 MADAM CHAIR: Thank you, Mr. Colborne.

4 Mr. Potson, thank you very much. We
5 appreciate you coming here this morning and you are all
6 finished.

7 THE WITNESS: Am I allowed to ask a
8 question?

9 MADAM CHAIR: To whom?

10 THE WITNESS: To you.

11 MADAM CHAIR: Sure, go ahead. I don't
12 know if I can answer it.

13 THE WITNESS: I would like to know and,
14 you know, certainly my people would like to know what,
15 you know, what happens to this whole procedure?

16 MADAM CHAIR: What happens is that we
17 will finish the hearing in December of 1992, which is
18 more than a year away, and we will write a decision;
19 then that decision will either approve or deny the
20 application by the Ministry of Natural Resources.

21 And after our decision is published, some
22 parties may decide they don't like it and they may
23 challenge it. And there are two opportunities to do
24 that: one is to go to a court, if we have done
25 something that isn't fair; and the second appeal can go

1 to the Cabinet of the Ontario Government, and they have
2 a choice of either upholding our decision or rescinding
3 it.

4 THE WITNESS: Hm-hmm. Thank you.

5 MADAM CHAIR: And you will be kept
6 informed of what we're doing. Mr. Pascoe, our hearing
7 co-ordinator, periodically sends out letters telling
8 everyone who has appeared before the Board what stage
9 we're at at the hearing. And you will probably also
10 get an executive summary of the decision.

11 THE WITNESS: Thank you.

12 ---Witness withdraws.

13 MADAM CHAIR: Mr. Colborne, are we going
14 to take lunch now?

15 MR. COLBORNE: Yes. I see it's twelve
16 noon and I would appreciate a break at this time.

17 MADAM CHAIR: All right. And we can
18 expect to hear from four witnesses this afternoon?

19 MR. COLBORNE: Well, we can expect to
20 hear from witnesses this afternoon. I will be on the
21 telephone over the luncheon break.

22 MADAM CHAIR: All right.

23 And as we said last week, the Board - and
24 you seemed to be enthusiastic about this as well - is
25 that your case would finish this week and so if there

1 is a need for the Board to sit in the evening or to
2 restructure the hearing hours somehow, then please let
3 us know how we can accommodate that.

4 MR. COLBORNE: Yes. I'm quite optimistic
5 that we will be finished this week.

6 MADAM CHAIR: Thank you.

7 Shall we be back at one-thirty?

8 MR. COLBORNE: One-thirty would be fine.

9 ---Recess at 12:02 p.m.

10 ---On resuming at 1:30 p.m.

11 MADAM CHAIR: Please be seated.

12 Good afternoon, Madam Chair. My next
13 witnesses are Judy Morrison and Dennis Morrison. I
14 will ask them to come forward.

15 JUDY MORRISON,
16 DENNIS MORRISON; Sworn.

17 MR. COLBORNE: Judy Morrison is Band
18 administrator of the Nicickousemencaning - and I
19 probably mispronounced that - and Dennis Morrison is
20 the Band manager. And they are here concerned with the
21 community that is referred to at page 19 of the witness
22 statement, continuing on page 20.

23 My questions will not be directed to any
24 particular person, so you can decide who wishes to
25 answer each.

1 DIRECT EXAMINATION BY MR. COLBORNE:

2 Q. First, I will just ask you to confirm
3 that you are here on behalf of the Nicickousemencaning
4 Band; is that correct?

5 MS. MORRISON: A. Yes.

6 Q. And was I correct when I said, Judy
7 Morrison, that you are the Band administrator and,
8 Dennis Morrison, that you are the Band manager?

9 A. Yes.

10 MR. MORRISON: A. Yes, that's correct.

11 Q. I wonder if one of you could show us
12 on the photo mosaic the location of the reserve, at
13 least the reserve where the members of the Band
14 principally live?

15 A. It's right here.

16 Q. That's toward the east side of Rainy
17 Lake?

18 A. Yes.

19 Q. Now, there are a couple of other
20 reserves, I believe. Can you indicate where they are?

21 A. This is 26E and 26C. (Indicating)

22 Q. Indicating areas northeast of Rainy
23 Lake, would that be approximately accurate?

24 A. Yes, that would be correct.

25 This one would be on the northernmost

1 part of Red Gut Bay and this one on the upper left
2 corner of Red Gut Bay and the main village.
3 (Indicating)

4 Q. Could you tell me, please, what is
5 the main economic base, source of income and so on, for
6 the members of your community?

7 MS. MORRISON: A. I just want to give a
8 brief -- like, we only have about 150 people on our
9 reserve and there's about 80 per cent that are 30 and
10 under. So that our population isn't that great in the
11 older categories.

12 And right now, since we have so many
13 young people, we don't have a big economic base. Our
14 main source of income at the reserve is the Band
15 office. But there was a few years ago that our main
16 income was in the pulp and cutting forestry industry.

17 Q. At the present time, is any income
18 for on-reserve residents earned from pulp cutting?

19 A. No, there isn't.

20 Q. In a few minutes I think we will get
21 to what changed from the past when it was an important
22 income source, to the present when it isn't. But right
23 now I want to ask you about, what are the future
24 prospects and plan for your community, if it's possible
25 for you to generalize about that?

1 A. We're just in the process right now
2 of going over what we would like to see at the
3 community, and at this time we're only focussing on the
4 social problems at the reserve. There are no plans
5 right now to go into the forestry end because there's
6 no future seen in that area right now. But we do carry
7 on with the wild rice and the fishing.

8 Q. Is there harvestable wood available
9 on any of your three reserves?

10 MR. MORRISON: A. Yes, there is.

11 Q. How much? And do you have any plans
12 for it?

13 A. No, not at the moment, we don't have
14 no plans for it.

15 Q. Is there any particular reason for
16 that?

17 A. Yes, I can get into a lot of factors
18 in this. It takes money to buy material, to buy
19 skidders, to buy a lot of this stuff, and which at
20 times isn't available to the community.

21 Q. What about the possibility of just
22 selling the trees and letting somebody else cut them?
23 Has that been discussed?

24 A. No, that hasn't been discussed. I
25 think our first priority is we give our community

1 members a fair share of the first-hand experience on
2 this thing.

3 MS. MORRISON: A. We did have somebody
4 that was cutting a few years ago. They had their own
5 skidder but they weren't making enough in contracts to
6 be able to pay off that skidder, and he just didn't
7 feel that it was worthwhile for him to be in that area.

8 Q. Was that cutting on-reserve or
9 off-reserve?

10 A. On-reserve. He couldn't get a
11 contract off-reserve.

12 Q. The on-reserve contracts are the ones
13 that you say were small; is that correct?

14 A. On-reserve, yes.

15 Q. Who made the decision as to how big
16 those contracts would be?

17 A. I would think it was Boise. That's
18 who we had to make our application to.

19 Q. Okay. I'm probably misunderstanding
20 your evidence. When you say contract, do you mean not
21 permission to cut but the ability to sell?

22 A. They bought the wood. Well, we
23 needed to get a buyer. There's no sense cutting the
24 wood if we don't have a buyer for it.

25 Q. Yes, okay, I was misunderstanding

1 your evidence. I thought that you were saying that
2 this individual couldn't get permission to cut enough
3 wood, but the problem was he couldn't find anybody to
4 buy enough; is that right?

5 A. Right.

6 Q. I will get back to more questions
7 about actual forestry operations. But before I do
8 that, I would like to ask you some questions about the
9 economic role of traditional activities like fishing,
10 trapping, wild rice and hunting. You did mention a few
11 minutes ago that wild rice was still a factor. How big
12 an economic factor is that for your community?

13 A. There's a lot of people that still
14 like to go and pick the wild rice, but not as a source
15 of income, more as something that's a way of life for
16 us because there really isn't any money in even selling
17 our wild rice. It's more of a livelihood.

18 But we did at one time have -- I guess
19 the reason for that is because we don't have that much
20 wild rice at the reserve. We did have some in the
21 Ottertail Lake (phoen.) area of our Band. But when the
22 dam was built in Fort Frances here, it raised the lake
23 levels and it wiped out our wild rice area.

24 Q. Did it ever come back?

25 A. No, it's just scattered.

1 Q. What about fishing? Is fishing an
2 economic factor for your community?

3 A. No, it's not.

4 Q. And trapping?

5 A. Trapping, there are two members that
6 have traplines off the reserve. And right now they
7 said that they are having a hard time with the, with
8 making ends meet, especially in the last couple of
9 years because of the clear-cutting that's going on.
10 It's affecting the feeding of the animals and the way
11 the animals live.

12 Q. Do you know the names of those
13 particular trappers?

14 A. Yes. Nancy Jones and Daniel Jones;
15 they are two separate trappers. We do have one that
16 traps on-reserve and it's more on a part-time basis.
17 But also they did mention that the prices of the furs
18 were not very good this past year. Nancy mentioned
19 that she only got \$3 for a large beaver, which is
20 really... She wasn't making any return.

21 Q. Those two individuals, Nancy Jones
22 and Dan Jones, you mentioned clear-cutting. Has there
23 been clear-cutting on both of those traplines?

24 A. I can say only for Nancy.

25 Q. And is it a problem for her trapline?

1 A. She sees it as -- yes. Because she
2 said they did go on to her trapline and they cut a lot
3 of trees. And when she had her traps out, they just
4 moved her traps like, you know, and they didn't have
5 any consideration for why she was out there too. You
6 know, like there was no respect shown for what her
7 livelihood was.

8 And she said that the ones that are
9 affected are the pine marten, the deer, beavers, moose,
10 like those things she hardly ever sees anymore. They
11 are not in great abundance.

12 Q. Do you know anything about the other
13 trapline that you mentioned, that is, Dan Jones'?

14 MR. MORRISON: A. Yeah. Dan Jones is --
15 he didn't see any real problem with his, not to the
16 nature of forestry.

17 Q. Is there any cutting that has taken
18 place on his trapline?

19 A. Not that I know of, no.

20 Q. What about hunting? Is hunting still
21 a factor economically for your community?

22 A. I think a lot of these traditions are
23 basically, a lot of them are just done on a casual
24 basis. It's not done extensively anymore.

25 MS. MORRISON: A. I think a lot of times

1 too is they are afraid to go out in the bush,
2 especially during hunting season. You know, like they
3 won't go out there because of the carelessness. And
4 there are a lot of non-natives that come and hunt on
5 the reserve. Like, we've caught them once in a while.
6 But, you know, I think people are just afraid to take
7 the chances out in the bush.

8 Q. Has there been any effect on hunting
9 from the forest industry, the actual operations of
10 forestry, that you are aware of?

11 MR. MORRISON: A. Yes, it does. When
12 you think of clear-cutting, that's -- what you are
13 doing is actually you're taking a home away from all
14 the animals that live within that place. And if they
15 don't have a home to go to, then where do they go?
16 They move, they move on.

17 MS. MORRISON: A. It also affects the
18 medicines, the traditional medicines.

19 Q. Tell me more about that.

20 A. About the herbs.

21 Because when you dig up the ground, those
22 medicines don't always grow back there and that's
23 something that is a part of our way of life too, and a
24 lot of times there's no consideration for the things
25 that we use in our healing.

1 And also, we're -- I did ask about if
2 there had been any consultation in any of the
3 progresses that have been made over the years, and the
4 older people can't remember anybody going to the
5 reserve and asking them how they felt about what was
6 going on. Because there have been burial grounds that
7 have been tampered with as well.

8 Q. You said the old people can't
9 remember anybody ever coming. What about the last,
10 say, couple of years? Has anything happened? Has
11 anybody come to the reserve to consult with the Band
12 about forestry operations in that area?

13 A. No.

14 Q. What about any correspondence? Do
15 you get letters from MNR saying "We would like your
16 input" or "We want to advise you of such and such"?

17 A. They have written letters to advise
18 us that they were doing something around the area but
19 not necessarily on the reserve because I don't think
20 they've really touched the reserve. It's just the
21 surrounding area.

22 Q. And what happens when those letters
23 are received in your office?

24 A. They are brought to Chief and
25 Council. And we are involved with the Indian Forestry

1 and if there are any concerns, they are brought to the
2 Indian Forestry Program.

3 Q. That's the operation that we've heard
4 about here that people call the Indian Forestry
5 Development Program?

6 A. Yes.

7 Q. IFDP.

8 Do you know when these letters that you
9 have referred to started coming?

10 A. No, it's just in the last maybe year,
11 year and a half, that we've really gotten a few letters
12 about different areas.

13 MR. MORRISON: A. Just to add to that
14 too. I think a lot of times is when letters started
15 coming out is when the hunting and fishing issue was
16 raised throughout Ontario about the rights of native
17 people hunting and fishing. A lot of these letters
18 started coming out.

19 MS. MORRISON: A. I wanted to also
20 mention, we had put in two proposals, two different
21 years, for an aquaculture farm to MNR. We never
22 received an acknowledgement or anything to say that
23 they even seen our proposals. So, like we really don't
24 have -- we have submitted it, but we can't say we have
25 received anything, so we don't know what status we're

1 at.

2 Q. Do you have any idea why you haven't
3 received a reply?

4 A. No.

5 Q. I mentioned a few minutes ago that I
6 was going to return to the question of actual forestry
7 operations carried on by your community, or by members
8 of it, or participation in the forest industry by
9 members of your community. And I would like to just
10 begin by asking if at the present time there's any
11 off-reserve forestry operation at all?

12 A. No, there isn't.

13 Q. And on-reserve, I think you have
14 already said there isn't one either; is that correct?

15 A. Hm-hmm.

16 Q. What about in past years? Has there
17 or were there in past years Indian-controlled forestry
18 operations?

19 A. No, there wasn't any Indian control
20 but there were bush camps that families went to go live
21 at off-reserve.

22 Q. Tell me more about that. How did
23 that work?

24 MR. MORRISON: A. On the bush camps,
25 it's basically they just moved from one area to another

1 area. When you were done with one area, you just moved
2 with the flow of trees, just moved from one area to the
3 other.

4 Q. And that came to an end, did it?

5 A. Yes, it did.

6 Q. When did it?

7 A. There is only a limited resource
8 on-reserve, on-reserve, on the amount of wood we can
9 harvest. It's limited.

10 Q. Oh, okay. Maybe I misunderstood. I
11 thought that you --

12 A. If you are talking about
13 off-reserve--

14 Q. Yes.

15 A. --it's only based on what contracts
16 you could get.

17 MS. MORRISON: A. See, when they were
18 going into the bush camps, it did slow down. And that
19 was because in the fifties, we were, I guess, I don't
20 know if that's the right way to say it, but we were
21 forced to go to boarding schools and to stay in one
22 place, so that we didn't have that family connection.
23 The kids needed a place to go home to, and that's where
24 they returned to, the village sites, because they
25 wouldn't send the kids home if their parents didn't

1 have a place of residence for them.

2 Q. And, excuse me, if I still don't
3 understand completely. But what's the connection
4 between that and that people used to work in the bush
5 camps? Are you saying that when the children had to go
6 to residential school, then the parents who used to
7 live in the bush camps had to move onto the reserve?

8 A. Yeah.

9 Q. Okay.

10 And those bush camps that we're talking
11 about now, that is, the ones that the parents used to
12 live in or near--

13 A. Hm-hmm.

14 Q. --are we talking about off-reserve
15 operations now?

16 A. Yes.

17 Q. Now that that transition has occurred
18 and the people are living -- what is it? In just one
19 community, one residential area?

20 A. (Nodding)

21 Q. Are there jobs for non-Indian
22 employers in the forestry business? And I will try to
23 break that down a little bit. Are any of your members
24 presently working in woodlands operations as cutters or
25 any of that type of work?

1 A. No, there isn't.

2 Q. What about over the past few years,
3 has there been any?

4 A. Yes.

5 Q. How recently? How many years would
6 you have to go back?

7 A. Just a couple of years. We had a
8 couple of people out cutting. A couple of years ago
9 was the last time. And that's what I referred to
10 earlier, is that they weren't making enough money to
11 pay off their skidder repairs or their skidder bills.

12 Q. Were they working under sub-contracts
13 or were they working as employees of the contract?

14 A. No, they had their own.

15 Q. They had their own contracts?

16 A. They had their own contract but it
17 was -- they had to get the approval by the Band and
18 then their stumpage fees had to go to Indian Affairs.

19 Q. So this was on-reserve cutting?

20 A. Yeah.

21 Q. Okay. And that's the same people you
22 were referring to earlier on?

23 A. Hm-hmm.

24 Q. What about any community members
25 doing that same type of work but off-reserve; that is,

1 cutting or any woodlands-type work for non-Indian
2 employers, whether Boise perhaps or a contractor? Is
3 there any of that employment and has there been over
4 past years?

5 MR. CASSIDY: Just to correct something.
6 Boise does not have employees of its own working in
7 these woodlands. Those are all contract employers,
8 hired contractors.

9 MR. COLBORNE: Oh, yes. I had forgotten
10 about one of the outstanding historical events of the
11 Fort Frances area was the demise of the Boise employees
12 in that field. So I stand corrected.

13 Q. The question would have to not refer
14 to Boise but refer to non-Indian employers of woodlands
15 workers, that's cutters and so on. Have any members of
16 your community had that type of work in the last few
17 years?

18 MS. MORRISON: A. No, they haven't.
19 There was a lot of -- I guess they got discouraged
20 because of the restrictions. There was a lot of
21 restrictions as to what they could go for, and I guess
22 they -- you had to have all your, what you call
23 licences, or you had to take courses on how to cut
24 wood.

25 And a lot of it was, you know, it was our

1 livelihood before, you know, that's what we did. And
2 they couldn't understand why all of a sudden we had to
3 go get a paper to say we know how to cut wood and I
4 think that was a discouragement also.

5 Q. Why would it be difficult for a
6 person who had worked in the bush for years to go and
7 get that paper? Do you know?

8 A. Because sometimes they couldn't read
9 and write, especially the older ones.

10 Q. I want to ask you the same question
11 about jobs in mills, whether saw mills or pulp and
12 paper mills. The question being: Have any members of
13 your community had such jobs in recent years including
14 right up to today?

15 A. In paper mills?

16 Q. Either one. Saw mills or pulp and
17 paper mills?

18 A. We haven't had anybody in the paper
19 mill but we did have a saw mill that was adjacent to
20 the reserve, where we're living now. But that closed
21 down in the late seventies. So, we haven't had
22 anything in the area of saw mills at all since that
23 time.

24 Q. What about jobs in tree planting?

25 A. Okay. In the last five years, we've

1 had tree planting every year; that's only for maybe a
2 three-week plant. And then we have a hand release
3 which is about three weeks to a month. But those are
4 totally on-reserve; they are not off-reserve.

5 A few of our people did go tree planting
6 off-reserve but they had problems with the person that
7 was paying them because they weren't getting their full
8 amount. The person who was paying them was giving
9 them -- deducting them for every little thing. And
10 they said that they worked their hours yet that guy
11 wouldn't believe them or wouldn't acknowledge the work
12 that they did put in.

13 Q. How long ago did that happen?

14 A. They didn't go last year - it was the
15 year before - because they wouldn't go back last year.

16 Q. Who does most of the tree planting
17 work, not on-reserve but off-reserve, in your area?
18 And it doesn't have to be the name of an individual if
19 you don't know, but is it local people who get these
20 contracts or is it companies that come in from outside
21 or what?

22 MR. MORRISON: A. No, I think a lot of
23 it is -- there's a lot of university students that come
24 up and do a lot of the tree planting in most of the
25 area around Fort Frances.

1 Q. Okay. I was really thinking more
2 about who holds the contracts as opposed to who does
3 the work, but--

4 MS. MORRISON: A. I don't know the --

5 Q. --I am also interested in who does
6 the work, so maybe I will just follow that up for a
7 moment.

8 How does it come to your attention or how
9 do you get this information that it's university
10 students who are doing the work?

11 MR. MORRISON: A. You see them in the
12 papers.

13 Q. What exactly do you see?

14 A. I know how to read and write and I
15 see what I see and I hear what I hear.

16 Q. Okay. In the papers, are you talking
17 about advertisements or --

18 A. Yes, advertising. Well, it's --
19 we're not complaining about -- see, I just want to make
20 one thing clear. It's not like we're complaining of
21 forestry jobs not being available. I think a lot of
22 our people don't want to get into that field, okay.
23 Let's make that distinction here. A lot of our people
24 have other areas that they have interests in and they
25 go to school for those. And it's not the fact -- it's

1 not to say that we want to all get into forestry.

2 Q. No doubt in a community your size,
3 there are, even a smallish community like that, there
4 are many different interests that people have. I want
5 to keep focussing as much as possible on forestry, even
6 though you can't draw a tight line around it, because
7 that's what this Board is considering.

8 And on this question of tree planting, if
9 you know, or if you have any information on it, is it
10 people from outside your area who actually get the
11 contracts to do the planting? Or is it people from
12 that -- from your own area who get them or do you know?

13 MS. MORRISON: A. Well, I think it was
14 in the Mine Centre, so it was a resident within the
15 Mine Centre that had the contract.

16 Q. Has your Band ever applied for tree
17 planting contracts or considered doing that
18 off-reserve?

19 A. Off-reserve... It was considered
20 except that we didn't always know when the contracts
21 were going to be tendered out or when they would be
22 opened up.

23 Q. And could you think of any system
24 that could be put in place so that you would know, so
25 that would come to your attention?

1 A. Yeah, there could be a system in
2 place where we could be given that chance to, I guess,
3 compete, you know, because there are people that do
4 want to do something but yet we're not told about
5 anything until after it's happened. And I think that
6 if we were given more of a -- more information, then we
7 would be able to look at it more seriously.

8 Q. Okay. Similar questions about fire
9 fighting. Do members of your Band get work as fire
10 fighters?

11 A. No. We did have about ten people
12 that went through the fire fighting program, and my
13 husband was one of them. He went for a couple of
14 years. But then he never got called back again and I
15 don't -- and nobody has ever, nobody else that has gone
16 through has ever gone back to fire fighting.

17 Q. Do you have any information about why
18 that happened, why these individuals who have been
19 trained have not been called?

20 A. No, I don't.

21 MR. COLBORNE: Did you...

22 Thank you. I have no more questions.
23 There will be some more questions.

24 MADAM CHAIR: Thank you, Mr. Colborne.

25 Mr. Cassidy, do you have any questions

1 for these witnesses?

2 MR. CASSIDY: Yes.

3 CROSS-EXAMINATION BY MR. CASSIDY:

4 Q. You mentioned that something like 80
5 per cent of the Band was aged 30 or under. Can you
6 give me a percentage, I think you said about 150 Band
7 members live on the reserve, can you tell me what
8 percentage of those would be of working age?

9 MS. MORRISON: A. Of working age?
10 Probably the full --

11 Q. Sorry?

12 A. Oh.

13 Q. You know what I mean by working age?

14 A. Yeah.

15 Well, let's see. Most of them are
16 because our oldest member is 63, you know, and so I
17 would say at least half.

18 Q. What about the youngest? I mean,
19 anybody under 16, I guess, is not entitled to work--

20 A. No.

21 Q. --in the normal course.

22 A. Hm-hmm.

23 Q. So it's about 50 per cent of the 150
24 are of working age, between 15 and 65, let's say?

25 A. Yes.

1 Q. About 75 people?

2 A. Yeah.

3 Q. How far is your Band from Fort

4 Frances -- I'm sorry, how far is your reserve from Fort
5 Frances?

6 A. How far is our reserve? It's about
7 25 miles east.

8 Q. Is there road access from your
9 reserve to Fort Frances?

10 A. Yeah. We just moved to that location
11 in the late sixties, just shortly around the causeway,
12 when the causeway was built.

13 Q. I see

14 A. We were living out at Ottertail Lake
15 before then, but there was no road access there; that's
16 why they moved towards the highway.

17 Q. To give your Band access?

18 A. Hm-hmm.

19 Q. I take it that if you had the
20 opportunity and the funds, your Band would engage in
21 more forestry activities; is that fair to say?

22 A. Right.

23 Q. You would view it as an economic
24 development opportunity?

25 A. It is.

1 But a lot of times when we talked about
2 the economic development opportunities, it costs a lot
3 of money to get the equipment, to get set up in that
4 area, and I think the Band in the past has attempted to
5 assist people to have start-up costs. But when these
6 individuals went to the bank to get the money, they
7 weren't able to access it.

8 Q. Credit is a problem or whatever?

9 A. Collateral.

10 Q. Right.

11 So, is it fair to say that you would be
12 in favour of logging activities then; in fact, you
13 would like to be more involved in logging activities?

14 A. Yes, there are people there.

15 Q. And if someone were to suggest there
16 should be no logging in your area, then you would be
17 opposed to it because that would prevent you from --

18 A. It depends on what type of logging
19 you are talking about, okay. Because if it's
20 clear-cutting, they are not in favour of something like
21 that.

22 Q. "They" being the Band?

23 A. Yes.

24 Q. I see. Any type of clear-cutting?

25 A. Yes.

1 Q. So that if your foresters in advising
2 you as to how to proceed with forestry activities
3 suggested to you that clear-cutting was the soundest
4 method in which to proceed, you would be opposed to
5 that advice and you would not follow it?

6 A. Yes, because our traditional teaching
7 is that when we take something from the earth we put it
8 back. We put something back.

9 Q. And you find clear-cutting to be
10 incompatible with that?

11 A. Right.

12 Q. Notwithstanding the advice of a
13 forester who told you otherwise, you would still be
14 opposed to it?

15 A. Right, right.

16 Q. What do you know about the -- you
17 were talking about the skills course or the certificate
18 that you need.

19 A. Right.

20 Q. And I'm interested in the amount of
21 written material that there is in that course. I
22 received information that it's mostly a hands-on
23 course, there is very little written portions of that
24 skills training.

25 A. I think -- well, when I looked at it,

1 though, a lot of the older people don't have much
2 education, okay.

3 Q. But most of your Band is young?

4 A. Yeah. But it's the older ones that
5 it was their livelihood.

6 Q. All right.

7 A. Okay. The young ones haven't picked
8 up on it as much because of the, probably the
9 dependency of the government. Like, you know --

10 Q. The what...? Sorry, I can't hear.

11 A. The dependency, you know, like on the
12 government.

13 Or else moving into the educational
14 fields that are available to us today. Like, there are
15 more jobs that we can get into.

16 Q. So, there's more than just forestry
17 available.

18 A. Yes.

19 Q. And that's what I think your
20 colleague, Mr. Morrison, was talking about earlier, is
21 that not everybody is interested in forestry--

22 A. Right.

23 Q. --among the younger set, if I can use
24 that word?

25 A. Yeah.

1 Q. But coming back to that skills
2 course, do you know if that is right: that in fact
3 most of that course is hands-on and very little of it
4 is in fact written?

5 A. No, I think a lot of the older people
6 are just afraid of the writing and reading. Like,
7 nobody has ever come to the reserve and given us any
8 information on what has to happen if they get into
9 those areas. You know, like there's no information
10 sessions for anybody.

11 Q. Do you have any information on that,
12 Mr. Morrison?

13 MR. MORRISON: A. No, I don't.

14 Q. Have you ever asked the Department of
15 Labour to come onto your reserve to give information on
16 the skills training courses for loggers?

17 MS. MORRISON: A. We have asked them for
18 different reasons to come.

19 Q. But what about for that reason: to
20 come on the reserve to explain that training to you?

21 A. I am just thinking. Not necessarily
22 for forestry. We have had them come in for different
23 areas and they have come and suggested how we do
24 things, but then we got caught in the, like, the
25 jurisdictional of the province and the federal, you

1 know: Where does the Band fit?

2 Q. You can't recall asking them to come
3 and explain this skills training course for logging to
4 you?

5 A. Not the Department of Labour.

6 Q. Or the Department of Skills and
7 Development? Do you recall asking them to come explain
8 it to you?

9 MR. COLBORNE: I'm confused now. Is that
10 a federal or a provincial ministry?

11 MR. CASSIDY: My understanding is that
12 they are both provincial agencies. If I have misused
13 the word "department", it's still nevertheless, as I
14 understand it, a separate agency of the provincial
15 government. And Mr. Martel is nodding his head
16 affirmatively.

17 MR. COLBORNE: Well, that clarification
18 is needed because I think there is a Federal Department
19 of Labour and --

20 MR. CASSIDY: I'm talking provincial, Mr.
21 Colborne.

22 MR. COLBORNE: Okay. The witness has
23 spoken of some confusion in regard to jurisdiction, so
24 I think it's important.

25 MR. CASSIDY: Fine.

1 Q. Has any provincial, focus on the word
2 "provincial" agency -- have you asked any provincial
3 agency to explain these skills training programs for
4 loggers to you?

5 MS. MORRISON: A. Not the provincial,
6 no.

7 Q. No?

8 You would find such a course useful,
9 would you not, a course in logging training for your
10 people?

11 A. Hm-hmm, yes.

12 Q. Yes. And it would not only serve to
13 increase your protection for safety but it would also
14 presumably increase your productivity and give you that
15 experience which you might need; right?

16 A. Yes, only -- well, if we were given
17 the opportunities off-reserve, yes.

18 MR. CASSIDY: Right. Thank you.

19 MADAM CHAIR: Thank you, Mr. Cassidy.

20 Ms. Morrison, your last remark in which
21 you said you were in favour of some training in
22 forestry, in logging, the skills training course Mr.
23 Cassidy was talking about, you meant for your younger
24 members?

25 MS. MORRISON: Yes.

1 MADAM CHAIR: Because your previous
2 statement was that the older experienced Band members
3 who had been in logging resented or were unhappy with
4 the requirement to be certified that way?

5 MS. MORRISON: Yes.

6 MADAM CHAIR: Thank you.

7 Ms. Gillespie?

8 MS. GILLESPIE: I have no questions,
9 Madam Chair.

10 MADAM CHAIR: Thank you.

11 Mr. Freidin?

12 CROSS-EXAMINATION BY MR. FREIDIN:

13 Q. Ms. Morrison, you indicated that
14 there are, or have been in the past, projects where you
15 have done planting on the reserves.

16 MS. MORRISON: A. Yes.

17 Q. And am I correct that the reason you
18 engaged in planting was in order to put back what you
19 took away from the land?

20 A. Yes. There was cutting previous to
21 that.

22 Q. And that was the reason that you
23 planted: you wanted to make sure that you put back on
24 the land what you took from it?

25 A. Yeah. That there's more trees

1 coming, yeah.

2 Q. So, if in fact harvesting followed by
3 planting to return to the land the trees that you took
4 is consistent with your tradition, I assume when you
5 object to clear-cutting that you are referring to
6 something different? Now I assume that --

7 A. Yes.

8 Q. What do you mean by clear-cutting
9 then?

10 A. Clear-cutting is when you overturn
11 the roots and everything with the ground. You take up
12 the plants.

13 Q. Now, in terms of harvesting of trees,
14 have you seen operations where the trees are uprooted,
15 the roots are taken out and everything is --

16 A. Yes.

17 Q. Where have you seen -- are these the
18 big trees which are taken by the forest industry?

19 A. Well, even when you go from Thunder
20 Bay, like, you can see where, you know, you can't see
21 the vegetation. You know, like it's just not there.

22 Q. All right. So are you talking about
23 removal of -- I just want to...

24 A. It's removal of the vegetation or the
25 herbs and the young trees.

1 Q. All right. And what do you include
2 in this category of young trees? I mean, I make a
3 distinction between herbs and then young trees and then
4 you have got big, mature trees?

5 A. Yes, that's...

6 Q. Now, I want to get an understanding
7 of what it is you object to in terms of harvesting. If
8 you go into an area -- and just picture where the
9 industry has gone in. They go in and they harvest and
10 they come back and they plant the area so that the area
11 will grow back.

12 A. It depends on what they're planting.
13 Like, if they're just planting trees, you will never
14 get those other types of the herbs back.

15 Q. All right. Now, the kinds of herbs
16 that you are talking about, are these herbs which are
17 like these medicinal herbs which are of special value
18 to you?

19 A. Yes, they are.

20 Q. Do these medicinal herbs which are of
21 special value to you, do they exist everywhere?

22 A. Yes.

23 Q. Is it impossible to carry on a
24 logging operation without affecting medicinal plants
25 then; is that your evidence? I just want to understand

1 it. I'm not being critical.

2 A. It depends on how it's cut, I guess.
3 You know, because...

4 Q. How can you carry on, I mean if these
5 plants which are of value to you are everywhere, how
6 can one carry on a logging operation without in some
7 way adversely affecting at least some of those plants?

8 A. Well, you can't use every plant, you
9 know. Some of them are going to be trampled on. But
10 for the most part when you do a large area of
11 clear-cutting, it's a larger area that you'll lose.
12 But when you do -- when you select cut, or whatever you
13 call it, then you're not tampering with the whole area.

14 Q. And when you say "select cut", what
15 do you mean by that?

16 A. I am using the loggers' terms.

17 Q. I know. But I am just -- you use the
18 word and I want to understand what it is that you feel
19 is appropriate and is okay and what isn't.

20 A. It's because they select the areas
21 that should be cut. That's the only way that I
22 understood it. It depends on what type of trees are in
23 that area and they only choose red pine. That's the
24 only trees that they will take out of that area.

25 Q. So you are familiar with some areas

1 where they go in. There are a bunch of trees of
2 different species and red pine is one of them.

3 A. Right.

4 Q. And in those areas you have seen them
5 go in at times and just take out the red pine?

6 A. Right.

7 Q. And that is more acceptable to you?

8 A. That's the way that they have
9 practiced in the past, yes.

10 Q. Now, when you are speaking about
11 practicing like that in the past, are we going back
12 sort of 20, 30 years and further?

13 A. No.

14 Q. How recent are we talking?

15 A. The last couple of years. A couple
16 of years ago was when they last did it.

17 Q. And is that clear-cutting to which
18 you object?

19 A. Yes.

20 Q. That is?

21 A. Yes.

22 Q. If you go into an area and you have
23 spruce and you have jackpine and you cut most of the
24 trees down and you go back and -- well, okay.

25 MR. MORRISON: A. I just want to clear a

1 point here. A lot of the tree planting that was done
2 too was not in areas that were cut; it was in area that
3 was cleared. Like a lot of the bush was cleared. Not
4 big trees, but a little bush that was cleared, and a
5 lot of our tree planting was done in those areas.

6 Q. All right.

7 When you say the small trees were
8 cleared, are we talking cleared by logging operation?

9 A. No, cleared by someone that went in
10 and cleared trails in order to tree plant, just certain
11 areas.

12 MR. MARTEL: Was this long after the
13 original cutting had occurred? I mean, was this after
14 the major -- the bigger trees were taken out and some
15 years later?

16 MR. MORRISON: It's been done in the last
17 five years.

18 MR. MARTEL: No, but the cutting. Were
19 there trees removed from that space before and then the
20 scrub started and you went back to the scrub?

21 MR. MORRISON: There was no big trees in
22 the beginning.

23 MR. MARTEL: There was none originally?
24 Okay.

25 MR. FREIDIN: Q. Mr. Morrison, you are

1 talking about areas which were cleared for farming
2 purposes in the past?

3 MR. MORRISON: A. No, it was just a
4 little bush. No big trees were in there, but just a
5 tractor went in and bulldozed little, wee bushes and
6 started tree planting.

7 Q. Okay. Let me go back to where I
8 started. As I understand it, there are areas on the
9 reserve which have been planted with trees. Have any
10 of the areas which have been planted with trees on the
11 reserve in the past been areas which were previously
12 logged?

13 A. The area that was logged that we're
14 talking about is very small in terms of the size of our
15 community. The area is very small that we logged.
16 It's not even a majority, a major portion of our
17 reserve base.

18 Q. I understand that. But were any of
19 the areas where planting has been undertaken on the
20 reserve been on areas where you planted the trees to
21 replace trees which have been logged in the past?

22 A. Yes, it has been replaced.

23 Q. All right. And they were on areas
24 which were logged in the past?

25 A. Yes.

1 Q. Okay.

2 Going back to the plants, Mrs. Morrison,
3 are there specific kinds of plants which have more
4 importance for medicinal purposes than others? I'll
5 tell you where I'm going. Is there any way you can
6 come to the Ministry of Natural Resources or go to the
7 industry, if they tell you they are going to cut in a
8 certain area, and point in the ground and say "There
9 are areas where there are some plants there which have
10 specific, a lot of importance, that we don't want you
11 to damage those"? Do you know about their existence?

12 MS. MORRISON: A. We would have to ask
13 the older people, the ones that really know, but they
14 are starting to share some of that knowledge.

15 Q. Is that knowledge something which is
16 not -- has not been passed on by the elders to all the
17 people in the community?

18 A. No, it hasn't been.

19 Q. And so at the moment then, a lot of
20 that -- for that information to become known to the
21 Ministry or to the industry, it would have to be
22 conveyed directly by the elders or the elders would
23 have to tell you and you would have to pass that on?

24 A. Yes.

25 Q. Are you attempting within your

1 community to try to -- well, to get that sort of
2 information so that you can pass it on to the people
3 who might adversely affect those plants?

4 A. Yes, because we have just recently
5 done a research paper of our Band and where different
6 things are. But the herbs don't only come in on the
7 ground plants, okay, they are on the trees. And we
8 also used birch bark for making baskets or whatever
9 else we need them for, you know. Like, we use the
10 adults trees as well.

11 Q. You indicated that you had received
12 some letters from the Ministry of Natural Resources in
13 the last couple of years about what they were planning
14 to do, and you told Mr. Colborne that you took those
15 letters and you would take them to the Chief and to the
16 Council and then you might go to the Indian Forestry
17 Development Program.

18 A. Hm-hmm.

19 Q. Were the letters that you were
20 receiving, or that you were referring to, were those
21 letters where you were being advised that there were
22 some sort of timber operations being planned in the
23 vicinity of the reserve?

24 A. They haven't really been that close
25 to the reserve. I think they were in the Seine River

1 area. Those are the only ones that I remember.

2 Q. And how far is Seine River from
3 Nicickousemencaning?

4 A. Half an hour.

5 Q. Half an hour by car?

6 A. I mean 25 miles.

7 Q. And was the Ministry of Natural
8 Resources ever contacted about any concerns that the
9 Band had about the operations which were being
10 proposed?

11 A. That I would have to talk to Ron
12 Simmons because we did make our views known to him and
13 he was to bring them forward.

14 Q. So you see the Indian Forestry
15 Development Program as being someone who can take your
16 concerns about forestry operations or proposed forestry
17 operations and make those known to the Ministry or the
18 industry?

19 A. Yes, because we work together.

20 Q. You made reference to Nancy Jones,
21 indicating that her operation, her trapline had been
22 affected by clear-cutting?

23 A. Yes.

24 Q. And you also said that they just
25 moved her traps and didn't show any respect for either

1 her or maybe what she was doing. Can you tell me when
2 that happened, approximately?

3 A. She said her last three years haven't
4 been very good at all.

5 Q. Her last three years have not been
6 good in terms of -- in terms of what?

7 A. Of her trapping.

8 Q. All right. Has she put in the same
9 amount of effort every year or do you know?

10 A. Yes, yes.

11 Q. She has.

12 When did this incident occur when her
13 traps were moved?

14 A. Last year I think she said.

15 Q. Could you tell me where that was?

16 A. No, I would have to ask her.

17 MR. FREIDIN: Could I have an undertaking
18 as to where that occurred, Mr. Colborne?

19 MR. COLBORNE: The undertaking will be to
20 make reasonable efforts to obtain information from
21 Nancy Jones as to exactly where on her trapline the
22 traps were located which were moved; is that
23 satisfactory?

24 MR. FREIDIN: Yes. And any information
25 she has as to who moved them and any information she

1 has as to any complaints or notice she gave to the
2 industry or the Ministry of Natural Resources that that
3 had occurred.

4 MR. COLBORNE: Maybe before I give any
5 undertakings, maybe the witness should be asked. Maybe
6 we have information about that.

7 MR. FREIDIN: All right. That's the sort
8 of thing I'm looking for.

9 Q. Do either of you have any information
10 on that?

11 MS. MORRISON: A. No. Nancy just
12 relayed that information to me.

13 Q. Mr. Morrison?

14 MR. MORRISON: A. No, I just wanted to
15 make -- like, if somebody moved your trap and you know
16 where you put it, like, how could you tell - if you
17 weren't there yourself and you came there after the
18 fact - who moved it. How could you prove that?

19 Q. All right.

20 Did Mrs. Jones, or Nancy Jones, indicate
21 that she thought it was loggers that did it?

22 MS. MORRISON: A. Yes, she did.

23 Q. And did she say how she knew it was
24 loggers?

25 A. Because of the cutting that was done

1 around there.

2 Q All right.

3 A. The way she referred to it is after
4 the cutting was done, you could almost see from one end
5 of her trapline to the other.

6 MR. FREIDIN: I would like the
7 information as to when it occurred as well as to the
8 other questions I asked, Mr. Colborne.

9 MADAM CHAIR: Mr. Freidin, are you going
10 to bring reply evidence for the Board on the issue of
11 what happens when trappers' traps or equipment is
12 destroyed or lost when logging operations take place in
13 the area?

14 The Board has no evidence before it
15 whether MNR has a policy on this issue. And if you can
16 tell us you don't have one at this point in time --

17 MR. FREIDIN: I think there have been
18 questions as to whether the Ministry has any policy in
19 terms of compensation. There certainly is clear
20 evidence on that in Panel 7. The answer is "No."

21 You have indicated a concern and if I
22 think, looking back at the record in terms of the
23 evidence which has been led, that I could be -- the
24 Ministry could be of more help and be more precise in
25 that regard, then we will put that in as part of our

1 written reply.

2 Q. You also made reference to the Band
3 making an application for an agricultural farm and that
4 that application had been made to the Ministry of
5 Natural Resources.

6 MS. MORRISON: A. Aquaculture.

7 Q. It was the Ministry of Agriculture,
8 I'm sorry.

9 A. No, aqua.

10 MR. CASSIDY: It was a fish farm.

11 MS. MORRISON: Fish farming.

12 MR. FREIDIN: Oh, I'm sorry. Now I can
13 understand why it may have been MNR.

14 Q. And you didn't get any response. Can
15 you tell me when was that request made and do you have
16 any -- do you have a letter that you wrote to them that
17 you can either give me today or maybe have Mr. Colborne
18 give to me when you get a chance to get a copy?

19 MS. MORRISON: A. Yes. I don't have one
20 with me right now but we must have one at the office.

21 Q. And you will give that to Mr.
22 Colborne then, please?

23 A. Yes. It was more or less to do a
24 feasibility study to see if it was -- if we would be
25 able to do it at the reserve.

1 Q. Okay. And do you recall
2 approximately when that letter was written and to whom?

3 A. Yes, because I did it. I did a
4 follow-up last year and there was one the year before.

5 Q. Do you recall to whom the letter was
6 written?

7 A. No. But it was the Fort Frances
8 office.

9 Q. The Fort Frances office, okay.

10 If there's more than one letter, if
11 there's a series of letters, I would like to have the
12 series of letters. Okay?

13 A. Okay.

14 Q. Thank you.

15 I take it that's all right, Mr. Colborne?

16 MR. COLBORNE: If the documents are found
17 and available to me, I will certainly provide them to
18 you, Mr. Freidin.

19 MR. FREIDIN: It seems from the answers
20 given that they should be found in the Band office.

21 MS. MORRISON: You know, I also think
22 that, you know, we're here on behalf of our Chief and
23 Council and that we have to go back and tell them what
24 happened here.

25 MR. FREIDIN: Q. I understand. I mean,

1 I have no problem with you having to go through
2 whatever process you have within your community to get
3 the authorization.

4 MS. MORRISON: A. Hm-hmm.

5 Q. Perhaps you can tell when you go
6 back, you can tell the Chief and the Council that the
7 reason that I am asking for it, on behalf of the
8 Ministry, is that if letters have gone and there have
9 not been responses, I think it's in everyone's best
10 interests, including the Ministry, to know about that
11 and to correct that.

12 And the best way to correct it is to in
13 fact have evidence that, you know, how it has occurred
14 and follow up why it occurred. So that's why I am
15 asking the questions and perhaps you could indicate
16 that's the reason: it's to try to improve something if
17 something is not right.

18 A. Hm-hmm.

19 MR. FREIDIN: Those are my questions,
20 Madam Chair -- oh, one more thing.
21 ---Off the record discussion.

22 MR. FREIDIN: Those are my questions.
23 Thank you.

24 MADAM CHAIR: Thank you, Mr. Freidin.

25 EXAMINATION BY MADAM CHAIR:

1 Q. One question, Ms. Morrison. What
2 distance off the reserve would your elders go searching
3 for medicinal plants? In traditional ways of
4 collecting those plants, would they go many miles off
5 the reserve? Would it be all over Northwestern Ontario
6 or would the areas be closer?

7 MS. MORRISON: A. No, you can find the
8 plants anywhere, really. It depends on what they are
9 looking for, I would think, you know. But most of the
10 plants grow within the local area.

11 Q. So they are not particularly scarce
12 plants that would only grow in one location and nowhere
13 else?

14 A. No, I think we can get a lot them
15 just from where we're living right now,

16 Q. Okay. Thank you.

17 A. In that area.

18 MADAM CHAIR: Mr. Colborne?

19 MR. COLBORNE: No re-examination. Thank
20 you.

21 MADAM CHAIR: All right.

22 Ms. Morrison and Mr. Morrison, the Board
23 thanks you very much for coming here and giving us your
24 evidence. Thank you.

25 ---Witnesses withdraw.

1 MR. COLBORNE: Madam Chair, my next
2 witness, Richard Kelly, is here. However, I would
3 request a brief recess to...

4 MADAM CHAIR: That's fine, Mr. Colborne.

5 And will you be having other witnesses
6 this afternoon in addition to Mr. ...

7 MR. COLBORNE: I think one more, but I
8 will know the answer to that when we return.

9 MADAM CHAIR: That's fine. Thank you.

10 ---Recess at 2:37 p.m.

11 ---On resuming at 3:00 p.m.

12 MADAM CHAIR: Mr. Colborne.

13 MR. COLBORNE: As I mentioned, Madam
14 Chair, my next witness is Richard Kelly. I will call
15 him forward. Perhaps he could be sworn while we're
16 waiting for Mr. Cassidy. I think he left the room for
17 a moment.

18

19 RICHARD KELLY; Sworn.

20

21 MR. COLBORNE: Mr. Cassidy is back, so
22 I'll proceed.

23 MR. CASSIDY: Thank you, Mr. Colborne.

24 DIRECT EXAMINATION BY MR. COLBORNE:

25 Q. Mr. Kelly, I understand that you are

1 here representing the Onigaming Band?

2 A. Yes, I am.

3 Q. Are you a member of the Band?

4 A. Yes.

5 Q. And what is your position with the
6 Band at the present time?

7 A. I carry the self-government
8 portfolio. I'm the co-ordinator of it.

9 Q. Take your time. If you want to get
10 any papers out, if you need them, or to make notes.

11 A. Okay.

12 Q. Mr. Kelly, could you look at the
13 photo mosaic entitled "The Treaty #3 Ojibiway Homeland"
14 and show us where the main Onigaming community is
15 located.

16 A. It's right here. (Indicating)

17 Q. If you had to describe in words where
18 that is, what would be a good way to do it?

19 A. Well, we're situated between Fort
20 Frances and Kenora. The closest township is Nestor
21 Falls. And we're on Crow Lake. And the Onigaming
22 speaks for itself: it means portage.

23 Q. And that's portage between what two
24 bodies of water?

25 A. Crow Lake and Lake of the Woods.

1 Q. And Crow Lake is a lake just east of
2 Lake of the Woods?

3 A. Yes.

4 Q. If you go to Onigaming, what do you
5 find in terms of community of people? What's the
6 economic base? What is the main source of jobs, this
7 kind of thing?

8 A. There's several Band-run projects to
9 do with the housing, renovations. Then there's
10 seasonal work as well with tree planting, fire
11 fighting, commercial fishing, and trapping. And people
12 that do commute with other jobs as well, with other
13 organizations or agencies.

14 Q. What is the employment level
15 on-reserve? Is it high or low or in between? How
16 would you describe it?

17 A. I would say it's about -- right now,
18 I would say about 30, 40 per cent.

19 Q. That is 30 to 40 per cent employed or
20 unemployed?

21 A. Employed.

22 Q. Does the Band have any future plans,
23 that you are aware of to improve its economic situation
24 and the employment situation?

25 A. Yes, we do. We're looking at

1 sustainable roadside commercial development and it's
2 just recently been proposed again to go ahead with this
3 project. And they're just building a mini mall. And
4 the other one that we just made a proposal is with the
5 Economic Development Centre which is commencing with a
6 fish hatchery.

7 Q. I see that Onigaming has more than
8 one reserve.

9 A. Yes.

10 Q. What I would like to know is whether
11 there's much harvestable wood available on any of those
12 reserves?

13 A. Well, a lot of it, it's -- there is
14 good wood but it's also the terrain. There's a lot of
15 rock involved and it's not accessible.

16 Q. What is the state of the traditional
17 economic pursuits such as fishing, trapping, wild rice
18 and hunting? Do your community members still
19 participate in that type of thing?

20 A. Yes.

21 Q. Let me take them one at a time.
22 Fishing. Is there commercial fishing done at
23 Onigaming?

24 A. Yes, there's I would say about six or
25 seven commercial fishermen, and I think three of

1 them -- I think it's three of them are full time and
2 the others are part time.

3 Q. What about trapping? Are there many
4 trappers who live at Onigaming?

5 A. Yes, there's three full-time or
6 four -- three or four full-time trappers and three part
7 time.

8 Q. And wild rice. Is wild rice an
9 important economic factor?

10 A. Yes, if it's -- if the water is not
11 too high. Usually, it's controlled by a couple of
12 dams, I believe, and if the water gets too high -- if
13 it starts to grow, water then will rise and it just
14 kills the rice and it doesn't grow anymore. It's kind
15 of drowned, I guess.

16 Q. And what about hunting? Is hunting
17 still an important factor for members of your
18 community?

19 A. Yes, there's quite a bit -- the
20 majority of the reserve hunts.

21 Q. Now, I want to ask you if forestry
22 has had any effect on any of those traditional land use
23 activities that I just mentioned. And when I talk
24 about forestry, I would include things like logging
25 roads, pulp mills, dams, anything that would be

1 associated with forestry in a very general sense.

2 So what about fishing? Has the fishing
3 economy been affected at all by forestry that you know
4 of?

5 A. I spoke to one of the trappers
6 yesterday, or not trappers, one of the fishermen, he
7 does both. And he just basically told me that it's
8 affected their fishing and trapping at the same time,
9 where there have been some incidents involving the
10 traps being disturbed or the nets being disturbed,
11 vandalized or taken, stolen.

12 Q. Okay. Let's just deal with the
13 fishing first then and I will get to the trapping in a
14 minute. Who is this person who gave you the
15 information?

16 A. This is Joe and Tom Shebagegit. It's
17 two brothers.

18 Q. Joe and Tom Shebagegit?

19 A. Yes.

20 Q. And what did they tell you about the
21 fishing? There was something about the nets?

22 A. The fishing was like -- the quotas
23 are met, I think the quotas are met. I'm pretty sure
24 they are. And I think it's just to -- the fishing,
25 commercial fishing, like as I said, there's been some

1 incidents there. They don't happen all the time. It's
2 just I think there will always be an incident where
3 nets have been stolen or been cut, cut loose.

4 Q. Did these people who you talked to
5 relate that to any forestry or forestry-related
6 activity?

7 A. I can't remember when this happened,
8 but I understood where they weren't going to renew the
9 fishing licences at one time and I think there was also
10 confiscation of some nets--

11 Q Okay.

12 A. --and some equipment as well.

13 Q. Let me go back to the question I was
14 asking a minute ago, though. The fishermen who you
15 talked to, did they connect up loss of their nets with
16 anything having to do with forestry?

17 A. I wouldn't know.

18 Q. Now did you say that these people who
19 you spoke to were also trappers?

20 A. Yes.

21 Q. And what did they tell you about any
22 effect on trapping from forestry?

23 A. Okay. The forestry, there has been a
24 lot of overcuts to some of the traplines. As for Joe
25 Shebagegit's trapline, it was nearly overcut, and I

1 think Tom Shebagegit's was sort of along the edges of
2 the trapline. And what Tom said was the cutting is
3 pretty bad. There's no clear-cuts. I mean, there's
4 trees that are cutting but they're not totally cutting
5 everything. And they leave a mess. There's no
6 clean-up after a cut. The overcuts or the clear-cuts
7 are not...

8 Q. Sorry, I didn't hear that last part?

9 A. Well, there's no clean-ups on the
10 overcutting or the clear-cuts. There's some, I guess
11 if the trees are being damaged or scarred or they are
12 just left. You know, they are not really being cleared
13 up at all.

14 Q. What effect does that have on the
15 trapping as far as the information you have received is
16 concerned?

17 A. Okay. The animals had moved on
18 elsewhere. They are being chased away because of
19 machines and just the feeding grounds itself has been
20 destroyed or damaged and they just go somewhere else.

21 Q. And you mentioned the lack of
22 clean-up following logging operations. Did the
23 trappers who you spoke to tell you anything about how
24 that affects their trapline or their ability to trap?

25 A. Well, I think -- I have been out to

1 some of these roads myself on just personal interest.
2 Like, you don't see the animals that you would normally
3 see. Sometimes it's pretty rare to see just a deer
4 feeding on leaves. You don't see that anymore. And,
5 you know, there's oil canisters that are left there and
6 the residue of the oil just zips through the ground.
7 Sometimes it smells, some of it. So, that may affect
8 the animals as well too because they already know their
9 territory has been invaded.

10 Q. Is there anything else about effects
11 on traplines of forestry that you were told by the
12 trappers?

13 A. Okay. The only thing he said was
14 that the traps -- certain traps that have been set are
15 stolen along with whatever they were trapping.

16 Q. And is this Joe Shebagegit who told
17 you that or Tom Shebagegit?

18 A. Tom. Tom and Joe. They have
19 experienced some of the incidents that they were
20 personally involved with.

21 Q. Were they relating that to any
22 forestry activity when they told you that?

23 A. No.

24 Q. Do you know if it had any connection
25 with any forestry activity that was going on?

1 A. It's a possibility.

2 Q. I gather you don't have any
3 information one way or the other; is that the
4 situation?

5 A. No, I just... From the trapping,
6 what I was told was that there's -- the trapping is not
7 that good anymore, market value is down, and the fine
8 fur that they trap is just not there anymore.

9 Q. Now, I want to ask about wild rice.
10 You have already mentioned the drowning of wild rice
11 caused by water level fluctuations. Is there anything
12 else you can say about connections between forest
13 operations in the widest sense and wild rice?

14 A. See, we haven't had any real rice
15 picking seasons in the last decade. I think maybe two
16 or three times where the rice flourished on its own and
17 the people had fun. You know, there's feasts going on
18 all the time. And I don't know if some of the
19 clear-cuts that are around rice fields would affect the
20 rice at all, but if there's no air circulating or
21 moisture, then the rice itself will just dry up.

22 And when the wild rice is ready to be
23 harvested, it's -- usually you can tell if it's good;
24 and if it's not well done or if it's been baked under
25 the sun, then there's a different taste to it.

1 Q. Are you a wild rice picker yourself?

2 A. Yes, I am.

3 Q. I meant to ask you this: Have you
4 ever been a trapper?

5 A. No.

6 Q. Have you ever picked wild rice in a
7 lake or any body of water where there has been
8 extensive cutting right nearby, particularly right up
9 to the edge?

10 A. I guess the only place would be --
11 that I've noticed is -- would be around Stephen's Bay
12 area but we planted that area as well.

13 Q. Did you notice anything about the way
14 the rice grew at that location that caused you to come
15 to any conclusions about the effect on rice of cutting
16 in the near vicinity of where the rice is growing?

17 A. No.

18 Q. I earlier mentioned hunting and you
19 said that hunting is still a factor for a lot of
20 members of your community. Is there any effect on
21 hunting from the forest industry in the broadest sense?

22 A. I guess some areas it's easy to kill.
23 You know, they are standing there in the clear-cut area
24 and they have no chance, they are defenceless. If you
25 go to -- there's one area where we usually go. It's on

1 the peninsula and that's one reserve that's designated
2 to over 25 communities, and people still go there to
3 practice -- or, not practice, but to meet there once a
4 year and that's just to hunt.

5 Q. Is that a good thing or a bad thing?

6 A. Well, it's...

7 Q. In your opinion?

8 A. In my opinion it's a good thing
9 because it's a chance that we're still practicing our
10 traditions. And it's just the way of life that we're
11 accustomed to. And right now it's just -- it's
12 reviving itself again.

13 Q. What I was thinking about when I
14 asked the question is: Is it a good thing or a bad
15 thing that it's easier to shoot animals where there has
16 been a forestry operation and therefore less trees and
17 cover?

18 A. Well, personally it's -- I don't
19 know. You ask yourself: Should I shoot him or let him
20 run first, you know? So, I don't know. I couldn't
21 answer that properly. I don't know how you would want
22 me to answer that. Be very brutal or, you know, or
23 with some compassion.

24 Q. I didn't hear that last part.

25 A. You know, I don't know. I just don't

1 know how to answer it.

2 Q. Now, I want to ask you about forestry
3 operations, as such, by the Onigaming Band or members
4 of it. First of all, let's talk about in the past. In
5 the past, did the Band have any operations that it ran?

6 A. Yeah. I remember when I was a kid
7 where they used to have skidders or logging somewhere.
8 I don't know where. But I just remember they used to
9 have logging, do some logging for somebody.

10 Q. Do you know if that was on-reserve or
11 off-reserve?

12 A. I couldn't be sure.

13 Q. And do you know if that was Band-run
14 or was that individuals?

15 A. Well, the bands themselves, they
16 owned the skidders so it had to be -- if there was a
17 joint venture or it was just for some company.

18 Q. About how long ago was that?

19 A. I would say about 20 years.

20 Q. And what about today? Is there any
21 Band-run forestry operation of any kind?

22 A. No, there isn't.

23 Q. And that applies both on-reserve and
24 off-reserve; is that right?

25 A. Yes.

1 Q. It says in the witness statement that
2 there are still some older Band members who previously
3 were cutters. Is that your information as well?

4 A. Yes.

5 Q. And it also says that at the present
6 time, younger people do not consider forestry careers.
7 And it states some reasons. Is that your information
8 as well?

9 A. I don't know. We have always had a
10 good working relationship with the Kenora district
11 office, with the tree planting and the fire fighting.
12 And there was also a couple of times where they were
13 looking for contract people to have contract positions
14 for. I was personally involved in the two occasions
15 that I worked for MNR.

16 Q. I was just about to get to that. I
17 understand that you yourself at least began a forestry
18 career?

19 A. Yes.

20 Q. At least in a sense. Tell us about
21 that.

22 A. This was in 1979. We worked under
23 the native familiarization program and that was just to
24 enter the forest industry. And they just basically
25 trained us on-site with the different operations that

1 they were doing with the timber crews and seminizing
2 seedings, fire fighting. We also did some work with
3 the fisheries department.

4 Q. When you say "they", who are you
5 talking about?

6 A. Oh, the staff in Kenora, which is a
7 different -- we were moved around whenever possible if
8 they had something else to do.

9 Q. This is MNR?

10 A. Hm-hmm.

11 And we also did some wild rice surveys
12 and worked in the park.

13 Q. And who is the "we" now?

14 A. Okay. The other guy that we worked
15 with was Laurence Kelly.

16 Q. You mentioned the name of a program.
17 Was it Native Familiarity...?

18 A. Familiarization Program.

19 Q. Familiarization Program. Okay.

20 And you mentioned another person besides
21 yourself; that makes a total of two. Were there other
22 people in this program?

23 A. No, there was just the two of us.

24 Q. And how long did the program last?

25 A. One year.

1 Q. And you've already mentioned that you
2 did numerous things. What happened at the end of that
3 year? Like, what -- did you get something or...?

4 A.- Nothing. We were just told "That's
5 it."

6 Q. At that time were you interested in
7 continuing with that type of thing?

8 A. Yeah. At that time I was.

9 Q. Do you know, do you have any
10 information on whether it was available? In other
11 words, could you have continued?

12 A. I am not sure because they didn't
13 give us anything after the program. There was no
14 information given to us.

15 Q. Do you know if that program was
16 carried on in any years other than the year that you
17 took it?

18 A. No.

19 Q. You don't know?

20 A. Well, at the end of the program, I
- 21 asked if there was going to be other programs as such.
22 They said, "We don't think so. We don't have
23 anything."

24 Q. By the time you finished it, were you
25 interested in any particular area of forestry to

1 continue with?

2 A. Well, I -- the overall activities
3 that we did was fun because we did numerous,
4 participated in different operations. It was fun
5 because we were being basically trained. If it was a
6 possibility to continue -- and they also indicated
7 there was - I think it was in Trent - to go to school
8 if we wanted to go to school or something. But I think
9 this was just more or less, "Go get an education and
10 then come back."

11 Q. After you had completed that year,
12 what did you do the following year?

13 A. I lived on the reserve for a while, I
14 guess.

15 Q. Did you ever go back into doing any
16 forestry-type work?

17 A. Just, I guess about four years ago we
18 just did a two-month contract for the Indian Forestry
19 Program.

20 Q. Except for those two months, was
21 there any other time when you did forestry work
22 following that one-year program?

23 A. No.

24 Q. Basically what have you been doing
25 since then?

1 A. I went out and got an education and
2 then I'm working for the Band.

3 Q. I want to ask you a few questions now
4 about any jobs that members of the Onigaming Band have
5 in forestry. Is there anybody presently working as a
6 cutter or in any woodlands operations that you know of?

7 A. No. No, there isn't.

8 Q. And what about in saw mills or pulp
9 mills?

10 A. We have two guys, two brothers that
11 are working in Kenora for Boise.

12 Q. That's in the mill?

13 A. Yes.

14 Q. And do they live on-reserve?

15 A. One of them commutes; the other one
16 lives in Kenora.

17 Q. What about in the field of forest
18 management? Is there any member of your community who
19 has a job in any forest management capacity?

20 A. No.

21 Q. Turning to more seasonal types of
22 work, what about tree planting? I heard you say a few
23 minutes ago that you have had a -- something to the
24 effect of several years of successful tree planting
25 operations; is that correct?

1 A. Yes, we just completed another one.

2 Q. Okay.

3 Could you tell me, do you know when that
4 got started?

5 A. I think it was in late April or just
6 in May. It was on for three weeks.

7 Q. I mean how many years ago--

8 A. Oh, the tree planting.

9 Q. --since the Band started getting
10 involved in tree planting as an economic activity?

11 A. It's about 15-some years, maybe,
12 plus, somewhere around that area.

13 Q. Now, you have looked at what the
14 witness statement says at pages 23 and 24; is that
15 correct?

16 A. Yes.

17 Q. And I am referring you to some words
18 which appear in the fourth last paragraph on page 24.
19 It says there:

20 Initially, there was difficulty in
21 obtaining these contracts, that is, tree
22 planting contracts, in the sense of
23 satisfying all of the paperwork and
24 criteria, but these problems were
25 overcome.

1 Can you tell me anything more about that,
2 either from your own experience or from enquiries you
3 have made?

4 A. Okay. The only thing that was said
5 and what I sense is they -- I mean the Band has a good,
6 has a relationship with Kenora with the tree planting.
7 And I think the only paperwork and criteria that they
8 had problems on was just the pay because I think
9 there's the quality assessment on the planning that
10 needs to be done after the planning has been done, and
11 I think it takes about four to six weeks before the
12 Band can receive any sort of money.

13 And the majority of the time the money
14 just comes from -- in the Band funds. They will take
15 care of it. But I don't know how, with the quality
16 assessment it pays off the rest, if it's been -- I
17 don't think it's ever been a hundred per cent quality.
18 It might be anywhere from 75 to 85 per cent, but I
19 don't think they have ever paid the full amount.

20 Q. Is that a serious problem or is that
21 just another one of these administrative things that
22 people have to get at?

23 A. It was just a -- yes, it's just the
24 bureaucracy of it. Mind you too, there's -- we had
25 problems at one time. We were with a company, I think

1 it was one guy that was tree planting for a company and
2 he, I think they were planting in Red Lake somewhere,
3 and I can't remember the name of this guy, but he took
4 the money and ran and never paid the planters. So the
5 Band was somehow left in debt with this contract. That
6 was, I can't remember how many years, it was a few
7 years ago.

8 Q. Now, I want to ask you about fire
9 fighting. Are there many trained fire fighters at
10 Onigaming?

11 A. Yes. I think there's 30, 30 guys or
12 so. And just four guys were picked up just last week
13 to go fire fighting.

14 Q. It says in the witness statement that
15 the impression has been that fire fighters from your
16 reserve are called only as a last resort. Would you
17 agree with that?

18 A. I am sort of confused about that
19 because we -- when I made a presentation to the
20 Minister and other officials from MNR, we indicated
21 that we were prepared to have eight stand-bys every day
22 from when the fire season starts to the end.

23 We proposed, we have two pilots
24 on-reserve that were willing or would contribute to
25 transporting the fire fighters to the site. This was

1 just a verbal proposal but we didn't have anything on
2 paper. But they liked the idea anyway, but we haven't
3 submitted a proposal, a written proposal, as of yet.

4 Q. You have had at least some training
5 in forestry. What do you think are the obstacles that
6 would be facing a person, such as yourself, who wanted
7 to get into forestry in, say, in a fairly big way, as
8 opposed to just getting a job? Maybe getting a
9 contract or getting equipment and so on, what would be
10 the obstacles you would have to get over before you
11 would be in a full-blown operation?

12 A. I think it's just finding the
13 resources. The financial or equipment, you know,
14 whatever it needs to take to run an operation. And I
15 think the biggest obstacle would be getting financial
16 backup.

17 Q. In your area, that's around
18 Onigaming, is there still a reasonable amount of forest
19 that's suitable for cutting?

20 A. Yes, there is.

21 MR. COLBORNE: Those are my questions.

22 MADAM CHAIR: Thank you, Mr. Colborne.

23 Mr. Cassidy?

24 MR. CASSIDY: Thank you, Madam Chair.

1 CROSS-EXAMINATION BY MR. CASSIDY:

2 Q. In the witness statement on page 24
3 it states that the logging -- and I am looking at the
4 first full, I guess it's the second full paragraph on
5 page 24, talking about logging reserve areas. And it
6 states that "logging in these areas is probably
7 uneconomical". Do you know why that's the case?

8 A. It's just getting access to the,
9 whatever kind of wood you are looking for. It's a lot
10 of rock and it's just not accessible by road and it
11 would cost a lot if you were to make a road.

12 Q. I see.

13 And down at the next paragraph, and Mr.
14 Colborne was asking about this question, that sentence
15 regarding the initial difficulties of obtaining tree
16 planting contracts in the sense of satisfying all the
17 paperwork and criteria.

18 Now, I understand your evidence to mean
19 that with respect to criteria, that you had difficulty
20 reaching the quality assessment requirements or
21 standards; is that accurate? Initially you had that
22 difficulty?

23 A. I'm not sure. What do you mean?
24 Like...

25 Q. Well, you talked about how the

1 quality assessments needed to be...

2 A. Well, MNR does that.

3 Q. Right. Is that the criteria that
4 you're talking about, that you had difficulty meeting
5 those quality assessments initially?

6 A. I'm not sure if they really actually
7 had any real problems with Onigaming tree planters
8 because they have always come back and, "Listen, we
9 have got a few thousands trees that we want to plant."

10 Q. So it wasn't quality assessment that
11 you are having a problem with as far as you know?

12 A. I don't think so.

13 Q. All right.

14 Was there other criteria then?

15 A. I'm not sure. Like, I mean, I don't
16 do the paper work for the tree planting. I just got
17 this -- the majority of the information that I have is
18 the person is in Winnipeg and I didn't know I was going
19 to be here.

20 Q. There's nothing more you can help me
21 with on that sentence then; right?

22 A. Well, actually I went over that
23 sentence with the Band manager as well and he had a
24 hard time understanding it because he just says we
25 never had a problem with MNR. So, I don't know what...

1 Q. Okay. I will move on.

2 I am interested in your background. You
3 said that you were involved in -- Mr. Colborne took you
4 through it briefly in terms of your involvement in
5 forestry for a couple of months subsequent to your
6 involvement in 1979. And you said you got out of it
7 and went and got an education. Can you just tell me
8 what your education is in?

9 A. Just sociology.

10 Q. I'm sorry?

11 A. Sociology.

12 Q. I see. So you decided you would move
13 completely out of the forestry background?

14 A. No, I'm still involved but I'm just
15 working for my Band.

16 Q. All right.

17 And you're in fact using your skills that
18 you learned in your education, I assume?

19 A. Yeah.

20 Q. So, is it fair to say that you moved
21 - out of the forestry field by choice?

22 A. Yeah. I just lost interest. I don't
23 know, I'm just -- well, I'm back in it again. I am
24 talking with MNR in Ontario, you know, so it's
25 something new.

1 Q. So you did move out of it by choice;
2 you have maintained an interest --

3 A. I'm just not out in the field
4 anymore.

5 Q. Is that another reason -- we heard an
6 earlier witness talking about people wanting to go
7 after an education and doing other things than
8 forestry. Are you an example of that, where it is not
9 everybody on the reserves now wants to get involved in
10 forestry; they would rather do other things, pursue
11 other types of education?

12 A. Yeah, there's opportunities out
13 there.

14 Q. All right. And is there a number of
15 people in your Band who do not live on the reserve?

16 A. There's a number. I would say about
17 a hundred off-reserve.

18 Q. So, the witness statement talks about
19 469, let's round that off to roughly 500. You have got
20 another 100 that live off the reserve. So, 20 per cent
21 of your population lives off the reserve; is that
22 right?

23 A. Yeah, I would say.

24 Q. Do you know where they work?

25 A. They are all over the place. They

1 are living in different parts of Canada.

2 Q. So, it's hard to keep track of where
3 they are employed?

4 A. Well, there's a couple working for
5 the C.B.C. in Winnipeg.

6 Q. Do you have records -- you don't keep
7 records of where these people work, do you?

8 A. No. Well, I just know they graduated
9 with degrees. And I just, you know...

10 Q. Can I put the question this way? Any
11 comments you have on where your reserve -- where your
12 Band members are employed are basically confined to
13 where the on-reserve Band members are employed; is that
14 fair to say?

15 A. No. Because these guys can always
16 come back home and we can use them.

17 MR. CASSIDY: Okay. I have no further
18 questions.

19 MADAM CHAIR: Thank you, Mr. Cassidy.

20 Ms. Gillespie?

21 MS. GILLESPIE: No questions.

22 MADAM CHAIR: Thank you.

23 Mr. Freidin?

24 CROSS-EXAMINATION BY MR. FREIDIN:

25 Q. Mr Kelly, you said that the Band has

1 always had a good working relationship with the Kenora
2 district office. And I am just wondering whether you
3 could expand a little bit more on that. In what
4 respect?

5 A. Well, they've always consulted with
6 us if there was any tree planting or fire fighting. Or
7 similarly with this, with the Aulneau Peninsula
8 Wildlife Management Plan of consulting -- well, with me
9 anyway, since the beginning of the year.

10 Q. Are there any particular individuals
11 that you would name at the MNR district office in
12 Kenora that have been particularly helpful?

13 A. It's Gordon Peizer (phoen.) and Leo
14 Heinz (phoen.) have been consulting with me. But it's
15 pretty unfair they only consult with me because I've
16 got Treaty #3 involved now.

17 Q. It's my understanding that the Band,
18 in terms of the planting that it's doing, are not being
19 employed by MNR but are in fact tendering?

20 A. Yes.

21 Q. And they are successfully obtaining
22 contracts in competition with other bidders; is that
23 right?

24 A. I guess so. I am not sure if they
25 have actually done any real bids. They always seem to

1 come back. I mean, there's always a representative
2 from Kenora will come to the Band office and lay
3 something on the table for the Band manager to
4 consider.

5 Q. All right. Are you aware personally
6 though as to whether or not the Band is actually
7 bidding against other people successfully or whether
8 they are just being given specific planting projects?

9 A. I think they might be just being, are
10 given the specific planning areas because the planning,
11 the planting has always been sort of pretty local.

12 Q. All right. And are you able to
13 confirm whether or not the paperwork and criteria
14 problems which are referred to here were overcome as a
15 result of the Ministry of Natural Resources meeting
16 with members of the Band to explain what all the
17 paperwork and all the criteria were about? My
18 information is that that is in fact what happened.

19 A. I have no idea.

20 Q. Do you know Norman Copenash (phoen.)?

21 A. Yes.

22 Q. Is he a member of the Band?

23 A. Yes. He is our Band manager.

24 Q. He is your Band manager?

25 A. Yes.

1 Q. And is he somebody who would be
2 involved with these particular projects?

3 A. Yes. He has been the one that --
4 they've always contacted him with the planting and
5 that. So, I tried to get the information off him
6 yesterday.

7 Q. And were you successful in getting
8 information from him yesterday?

9 A. No.

10 Q. Do you have any knowledge, Mr. Kelly,
11 as to what percentage of the planting which takes place
12 on the Crown units in Kenora district are in fact
13 conducted by natives?

14 A. I would say about 80, 80 per cent.

15 Q. So it's your belief that it's a
16 pretty high percentage of the planting that takes place
17 on the Crown units in Kenora district that are done by
18 natives?

19 A. Yeah, usually because we're -- I
20 don't know, they are just honest, hard-working people.

21 Q. And can you confirm for me, sir, it's
22 my information that in relation to your Band
23 specifically, that you have performed very well in
24 terms of meeting the criteria for planting assessments?

25 A. Yes. Because it gives certain people

1 just to work for those three to six weeks.

2 Q. Have you been involved on any of
3 those planting contracts yourself?

4 A. Yes.

5 Q. And could you tell me whether
6 supervision by Band members or MNR is important? Is it
7 an important part of being able to meet those quality
8 assessments?

9 A. Yeah because we had a -- this was
10 with, I think this is in the Stephen's Bay area that we
11 were planting. I can't remember how many trees we
12 planted but we -- they were always there delivering the
13 trees whenever we needed the trees.

14 Q. Do you find that the planters from
15 your particular Band... I can't think of a word other
16 than sort of "enjoy" being involved in planting?

17 A. Yeah.

18 Q. If there are other bands that get
19 involved in planting and don't do nearly as well in
20 terms of their assessments, do you have any idea as to
21 why that would be the case, why your Band would do so
22 well and other bands might not?

23 A. I don't know.

24 Q. And on the contracts that you are
25 involved with in terms of tree planting, is the Band

1 providing all of its own equipment?

2 A. MNR just usually supplies the
3 equipment.

4 MR. FREIDIN: Those are my questions.
5 Thank you.

6 MADAM CHAIR: Thank you, Mr. Freidin.

7 Mr. Colborne?

8 MR. COLBORNE: No re-examination, thank
9 you.

10 MADAM CHAIR: Thank you very much, Mr.
11 Kelly, for coming here today and giving us your
12 evidence.

13 ---Witness withdraws.

14 MADAM CHAIR: Did you want to adjourn
15 today, Mr. Colborne?

16 MR. COLBORNE: Yes. Madam Chair, I have
17 been watching for two witnesses who were travelling
18 from Winnipeg. As Mr. Kelly just mentioned, his
19 people, who he is working for, are in Winnipeg, as are
20 most of the other Indian Chiefs in Canada because the
21 Assembly of First Nations is holding their national
22 meeting there.

23 And I think that there was an election
24 last night that didn't result in a decision until about
25 one o'clock in the morning, and I suspect that may have

1 to do with why my witnesses haven't reached here yet.

2 But what I would like to do, provided
3 it's satisfactory to yourselves and to the other
4 parties, is to try to organize things so that those
5 witnesses are called very quickly in the morning and
6 then that would conclude my Panel 3, and then we'll
7 move right into Panel 6.

8 MR. CASSIDY: Could you tell me who those
9 two are?

10 MR. COLBORNE: Yes. Steve Jourdain and
11 Arnold Gardner. These are the Chiefs of the Lac La
12 Croix Band and the Eagle Lake Band, respectively.

13 And the Chief of the Lac La Croix Band is
14 here only in regard to a very narrow range of issues
15 concerning himself because we have already heard from a
16 member of his Band.

17 MR. FREIDIN: Does that complete Panel 3?

18 MR. COLBORNE: That will complete Panel
19 3, partly because we are beginning to, I think
20 unnecessarily, repeat a lot of evidence and partly
21 because of difficulties occasioned by the fact that the
22 hearings last week and this week happened to coincide
23 with times when it has been almost impossible to get
24 the elected Chiefs available to travel to Fort Frances.
25 So those two factors combined have caused me to think

1 that the main points which my client wanted to make via
2 the Panel 3 evidence, their main points, have been made
3 adequately.

4 MADAM CHAIR: Mr. Freidin?

5 MR. FREIDIN: Madam Chair, during my
6 cross-examination of, I can't remember the witness now,
7 we looked at the mailing list for Fort Frances
8 district, the trappers who received notice of that
9 workshop.

10 MADAM CHAIR: Exhibit 1886.

11 MR. FREIDIN: 1886. I looked at that and
12 I was wondering why some of those names weren't there
13 and I noted that in fact there were no pages with
14 anybody's name from K to W. And I now have the full
15 list here of all the trappers who received it.

16 And apparently the reason you only
17 received some of them is that there was an attempt to
18 identify those trappers who were from the reserve. So,
19 only the pages where the person who did that thought
20 there were trappers from the reserve were provided.

21 Obviously there are trappers on the
22 reserve who are on the other pages. I would like you
23 to have the full list because I think there was an
24 impression left that the only people who received
25 notice were the people on those three or four pages

1 which form part of the exhibit. And I ask to file
2 that.

3 MADAM CHAIR: Any objections, Mr.
4 Colborne, to the rest of this list being filed.

5 MR. COLBORNE: No.

6 MADAM CHAIR: And did you want to check
7 to see if the nine additional names given by the
8 witnesses today showed up in this K to W listing or do
9 you want to just leave it?

10 MR. COLBORNE: I'll do that on my own
11 time if I feel that it's necessary. I am sure that the
12 list is complete now.

13 MADAM CHAIR: Thank you very much, Mr.
14 Colborne.

15 MR. FREIDIN: But if you do, and you find
16 that somebody is missing, let the Fort Frances district
17 know because they want to make sure their list is up to
18 date. We will just mark it as part of that Exhibit
19 1886.

20 MADAM CHAIR: Yes.

21 Mr. Colborne, what time do you think you
22 would be finished tomorrow? Do you have any idea now?
23 Do you think you will require the Board to sit tomorrow
24 evening?

25 MR. COLBORNE: I would guess that

1 cross-examination would take us into an evening session
2 but that we could be finished in the evening.

3 MADAM CHAIR: How long will you be in
4 direct examination? And will you have five witnesses
5 for Panel 6?

6 MR. COLBORNE: The latest telephone
7 advice I have is that there will be four witnesses, not
8 five, and that I intend to try to complete examination
9 in chief in about two and one-half hours.

10 MADAM CHAIR: Thank you.

11 MR. COLBORNE: However, I have to say
12 that I have not in the last three weeks had an
13 opportunity to meet with these particular witnesses, so
14 I am to a certain extent, I am guessing.

15 MADAM CHAIR: All right. Thank you.

16 Mr. Freidin, are you the only party who
17 will be cross-examining?

18 MS. GILLESPIE: I believe we will have
19 some questions, Madam Chair.

20 MR. CASSIDY: As I indicated in our
21 statement of issues, I will be here but I do not
22 anticipate cross-examining unless there's something
23 that comes out of left field somewhere.

24 MADAM CHAIR: Thank you.

25 Mr. Freidin, how long will you be?

1 MR. FREIDIN: It's very difficult to say.
2 I'm going to say three hours. I mean, I would say one
3 to three hours but that's not going to be much help to
4 you, I don't think.

5 MADAM CHAIR: Okay. Thank you.

6 MR. COLBORNE: Excuse me, Madam Chair, I
7 have just thought of something I should have advised
8 you and the other counsel of.

9 It was my intention to have evidence
10 concerning Grassy Narrows presented by Steve Fobister,
11 who is the Grand Chief of Treaty #3, and the past Chief
12 of Grassy Narrows, as a matter of efficiency to elicit
13 or to use one witness for the same -- or for two types
14 of evidence.

15 MADAM CHAIR: Chief Fobister's evidence
16 to be for Panel 3 as well as 6?

17 MR. COLBORNE: Yes. And I know certainly
18 Mr. Cassidy might want to know that.

19 One of the reasons being that I am trying
20 at least to have most, if not all, of the bands that
21 have a significant participation in the forest industry
22 heard. And so the ones that are not here would tend to
23 be ones that have had, at least in recent times, little
24 or no participation in forestry because in those cases
25 the information that they would be able to convey would

1 be really not different from what you have already
2 heard.

3 So, that's why I think it's important
4 that Grassy Narrows be one of the communities that you
5 obtain some information about. And so that will add a
6 little piece to tomorrow.

7 MADAM CHAIR: So, will Chief Fobister be
8 one of the two witnesses for Panel 3 tomorrow? He will
9 be the third witness?

10 MR. COLBORNE: That makes three for Panel
11 3.

12 MADAM CHAIR: Certainly, we have got at
13 least a full day tomorrow by the sounds of it.

14 Mr. Freidin.

15 MR. FREIDIN: There's only one other
16 outstanding matter and that's the matter of a timber
17 management plan that had been recommended by the IFDP,
18 that we talked about in Kenora. There was an
19 undertaking for Mr. Colborne to in fact receive
20 instructions about producing one.

21 And in the alternative, he indicated that
22 if he did not receive instructions to produce the plan
23 that he and I were talking about, that he would produce
24 Mr. Simmons before the end of his case for the purposes
25 of my asking some questions. I was just wondering

1 where that's going to stand.

2 MR. COLBORNE: I didn't recall that the
3 terms of the undertaking were just exactly as
4 described -- I didn't recall that Mr. Simmons would be
5 produced before the end of my case if I couldn't get
6 that authority.

7 If that's in fact the exact term of the
8 undertaking, I will get on the phone because I simply
9 haven't finished putting these pieces together yet. I
10 will get on the phone as soon as we adjourn here.

11 I think what I have, as I have informed
12 Mr. Freidin, is authority to release the timber
13 management plan prepared for the Rainy River Band by
14 IFDP. In fact, I do have that authority. It's just
15 that I haven't got the plan in my hand. And as soon as
16 I have that, I will give it to Mr. Freidin, and that
17 may satisfy his requirements.

18 MR. FREIDIN: If it's the silvicultural
19 plan for the Rainy River, for the Manitou of 1982, it
20 will not be satisfactory. It's the only one I am aware
21 of.

22 And secondly, that plan would be a plan
23 in relation to a forest region, the Great Lakes-St.
24 Lawrence forest region. I am more interested in the
25 boreal.

1 I have spoken to Mr. Colborne about a
2 specific plan. It is that plan that I want. And if
3 Mr. Colborne feels that he wants to see whether he can
4 get instructions to provide that and he doesn't have to
5 call Mr. Simmons, he needs more time, another week,
6 again if I have an undertaking from Mr. Colborne to
7 produce Mr. Simmons in the absence of, you know,
8 producing that plan, he can produce Mr. Simmons in
9 Thunder Bay. Mr. Colborne will be there. It's a
10 matter that I am quite willing to allow enough time to
11 Mr. Colborne and his clients to resolve this issue to
12 their satisfaction, one way or the other.

13 MR. COLBORNE: Well, that's fine. If we
14 don't have to worry about having Mr. Simmons here
15 tomorrow, then this problem is --

16 MADAM CHAIR: We're talking about next
17 August or September?

18 MR. CASSIDY: August 19th.

19 MADAM CHAIR: Thank you, Mr. Cassidy.

20 (Laughter)

21 MR. COLBORNE: If the terms of the
22 undertaking are not restricted to the end of my case,
23 and I can just produce Mr. Simmons at a reasonable and
24 convenient time, then there's no difficulty.

25 MR. FREIDIN: But I assume that you are

1 going to attempt to obtain a release of a plan that we
2 were talking about?

3 MR. COLBORNE: Yes.

4 MR. FREIDIN: Thank you.

5 MADAM CHAIR: Thank you.

6 And we shall start at nine o'clock
7 tomorrow morning, Mr. Colborne. Thank you very much.

8 ---Whereupon the hearing was adjourned at 4:03 p.m., to
9 be reconvened on Thursday, June 13, 1991, at 9:00
10 a.m.

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